:CORD
AND
VIEFS

No. 15-1485

IN THE

Supreme Court of the United States

DISTRICT OF COLUMBIA, ANDRE PARKER, AND ANTHONY CAMPANALE,

Petitioners,

v.

THEODORE WESBY, *et al.*,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED: JUNE 8, 2016
CERTIORARI GRANTED: JANUARY 19, 2017

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NOTICE

The following opinions, decisions, judgments, and orders have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the Petition for Certiorari:

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ORDER, ON PETITION FOR REHEARING EN BANC, U.S. Court of Appeals for the District of Columbia Circuit (February 8, 2016) 102a

U.S. DISTRICT COURT
DISTRICT OF COLUMBIA (WASHINGTON, DC)

1:09-cv-00501-RC

WESBY *et al.*,

v.

DISTRICT OF COLUMBIA *et al.*,

RELEVANT DOCKET ENTRIES

DATE	NO.	DOCKET TEXT
03/13/2009	1	COMPLAINT against DISTRICT OF COLUMBIA, EDWIN ESPINOSA, J. NEWMAN, A. CAMPANALE, ANDRE PARKER, FARAZ KHAN (Filing fee $ 350, receipt number 4616019104) filed by JOSEPH MAYFIELD, JR, JUAN C. WILLIS, LYNN WARWICK TAYLOR, NATASHA CHITTAMS, OWEN GAYLE, SHANJAH HUNT, SIDNEY A. BANKS, JR, STANLEY RICHARDSON, THEODORE WESBY, ALISSA COLE, ANTHONY MAURICE HOOD, BRITTANY C. STRIBLING, CLARENCE BALDWIN, ETHELBERT LOUIS, GARY GORDON, JAMES DAVIS. (Attachments: # 1 Civil Cover Sheet)(jf,) (Entered: 03/17/2009)

DATE	NO.	DOCKET TEXT
		* * *
07/15/2009	8	ANSWER to 1 Complaint, with Jury Demand by DISTRICT OF COLUMBIA. Related document: 1 Complaint, filed by JAMES DAVIS, NATASHA CHITTAMS, CLARENCE BALDWIN, GARY GORDON, JUAN C. WILLIS, SIDNEY A. BANKS, JR., THEODORE WESBY, BRITTANY C. STRIBLING, SHANJAH HUNT, ALISSA COLE, STANLEY RICHARDSON, LYNN WARWICK TAYLOR, JOSEPH MAYFIELD, JR., OWEN GAYLE, ETHELBERT LOUIS, ANTHONY MAURICE HOOD.(Frost, Shana) (Entered: 07/15/2009)
07/23/2009	9	ANSWER to 1 Complaint, with Jury Demand by A. CAMPANALE. Related document: 1 Complaint, filed by JAMES DAVIS, NATASHA CHITTAMS, CLARENCE BALDWIN, GARY GORDON, JUAN C. WILLIS, SIDNEY A. BANKS, JR., THEODORE WESBY, BRITTANY C. STRIBLING, SHANJAH HUNT, ALISSA COLE, STANLEY RICHARDSON, LYNN WARWICK TAYLOR, JOSEPH MAYFIELD, JR., OWEN GAYLE, ETHELBERT LOUIS, ANTHONY MAURICE HOOD.(Frost, Shana) (Entered: 07/23/2009

DATE	NO.	DOCKET TEXT
07/23/2009	10	ANSWER to 1 Complaint, with Jury Demand by ANDRE PARKER. Related document: 1 Complaint, filed by JAMES DAVIS, NATASHA CHITTAMS, CLARENCE BALDWIN, GARY GORDON, JUAN C. WILLIS, SIDNEY A. BANKS, JR., THEODORE WESBY, BRITTANY C. STRIBLING, SHANJAH HUNT, ALISSA COLE, STANLEY RICHARDSON, LYNN WARWICK TAYLOR, JOSEPH MAYFIELD, JR., OWEN GAYLE, ETHELBERT LOUIS, ANTHONY MAURICE HOOD.(Frost, Shana) (Entered: 07/23/2009)
07/24/2009	11	ANSWER to 1 Complaint, with Jury Demand by J. NEWMAN. Related document: 1 Complaint, filed by JAMES DAVIS, NATASHA CHITTAMS, CLARENCE BALDWIN, GARY GORDON, JUAN C. WILLIS, SIDNEY A. BANKS, JR., THEODORE WESBY, BRITTANY C. STRIBLING, SHANJAH HUNT, ALISSA COLE, STANLEY RICHARDSON, LYNN WARWICK TAYLOR, JOSEPH MAYFIELD, JR., OWEN GAYLE, ETHELBERT LOUIS, ANTHONY MAURICE HOOD.(Frost, Shana) (Entered: 07/24/2009)

DATE	NO.	DOCKET TEXT
07/24/2009	12	ANSWER to 1 Complaint, with Jury Demand by FARAZ KHAN. Related document: 1 Complaint, filed by JAMES DAVIS, NATASHA CHITTAMS, CLARENCE BALDWIN, GARY GORDON, JUAN C. WILLIS, SIDNEY A. BANKS, JR., THEODORE WESBY, BRITTANY C. STRIBLING, SHANJAH HUNT, ALISSA COLE, STANLEY RICHARDSON, LYNN WARWICK TAYLOR, JOSEPH MAYFIELD, JR., OWEN GAYLE, ETHELBERT LOUIS, ANTHONY MAURICE HOOD.(Frost, Shana) (Entered: 07/24/2009)
07/24/2009	13	ANSWER to 1 Complaint, with Jury Demand by EDWIN ESPINOSA. Related document: 1 Complaint, filed by JAMES DAVIS, NATASHA CHITTAMS, CLARENCE BALDWIN, GARY GORDON, JUAN C. WILLIS, SIDNEY A. BANKS, JR., THEODORE WESBY, BRITTANY C. STRIBLING, SHANJAH HUNT, ALISSA COLE, STANLEY RICHARDSON, LYNN WARWICK TAYLOR, JOSEPH MAYFIELD, JR., OWEN GAYLE, ETHELBERT LOUIS, ANTHONY MAURICE HOOD.(Frost, Shana) (Entered: 07/24/2009)

* * *

DATE	NO.	DOCKET TEXT
01/11/2011	25	MOTION for Summary Judgment by STANLEY RICHARDSON, BRITTANY C. STRIBLING, LYNN WARWICK TAYLOR, THEODORE WESBY, JUAN C. WILLIS (Attachments: # 1 Statement of Material Facts Not In Dispute, # 2 Exhibit Excerpts of Hunt's Dep., # 3 Exhibit Excerpts of Chittams' Dep, # 4 Exhibit Excerpts of Suber's Dep, # 5 Exhibit Excerpt of Espinosa's Dep., # 6 Exhibit Excerpts of Campanale's Dep., # 7 Exhibit Excerpts of Khan's Dep., # 8 Exhibit Excerpts of Newman's Dep., # 9 Exhibit Excerpts of Parker's Dep.)(Lattimer, Gregory) (Entered: 01/12/2011)
01/21/2011		Case reassigned to U.S. District Judge Robert L. Wilkins. Judge Richard W. Roberts no longer assigned to the case. (gt,) (Entered: 01/21/2011)
01/24/2011	26	MOTION for Extension of Time to File *Opposition to Plaintiffs' motion for summary judgment and file a cross motion for summary judgment* by A. CAMPANALE, DISTRICT OF COLUMBIA, EDWIN ESPINOSA, FARAZ KHAN, J. NEWMAN, ANDRE PARKER (Baker, Denise) (Entered: 01/24/2011)
01/31/2011	27	Memorandum in opposition to re 26 MOTION for Extension of Time to File *Opposition to Plaintiffs' motion*

DATE	NO.	DOCKET TEXT
		for summary judgment and file a cross motion for summary judgment filed by THEODORE WESBY. (Lattimer, Gregory) (Entered: 01/31/2011)
02/01/2011	28	REPLY to opposition to motion re 26 MOTION for Extension of Time to File *Opposition to Plaintiffs' motion for summary judgment and file a cross motion for summary judgment* filed by A. CAMPANALE, DISTRICT OF COLUMBIA, EDWIN ESPINOSA, FARAZ KHAN, J. NEWMAN, ANDRE PARKER. (Baker, Denise) (Entered: 02/01/2011)
03/11/2011	29	MOTION for Hearing by THEODORE WESBY (Lattimer, Gregory) (Entered: 03/11/2011)
03/17/2011		MINUTE ORDER granting 26 Motion for Extension of Time to toOppose Plaintiffs Motion for Summary Judgment and file their Cross Motion for Summary; it is hereby ORDERED that the District Defendants shall file their Opposition to Motion for Summary Judgment and their Motion for Summary Judgment on or before April 1, 2011. Signed by Judge Robert L. Wilkins on 3/17/2011. (tcb) (Entered: 03/17/2011)
03/17/2011		MINUTE ORDER denying 29 Motion to Convene Status Hearing. Signed

DATE	NO.	DOCKET TEXT
		by Judge Robert L. Wilkins on 3/17/2011. (tcb) (Entered: 03/17/2011)
04/01/2011	30	Memorandum in opposition to re 25 MOTION for Summary Judgment filed by A. CAMPANALE, DISTRICT OF COLUMBIA, EDWIN ESPINOSA, FARAZ KHAN, J. NEWMAN, ANDRE PARKER. (Attachments: # 1 Statement of Facts)(Baker, Denise) (Entered: 04/01/2011)
04/01/2011	31	MOTION for Summary Judgment by DISTRICT OF COLUMBIA, EDWIN ESPINOSA, FARAZ KHAN, J. NEWMAN, ANDRE PARKER (Attachments: # 1 Memorandum in Support, # 2 Statement of Facts, # 3 Text of Proposed Order, # 4 Exhibit A, # 5 Exhibit B, # 6 Exhibit C, # 7 Exhibit D, # 8 Exhibit E, # 9 Exhibit F, # 10 Exhibit G, # 11 Exhibit H, # 12 Exhibit I, # 13 Exhibit J, # 14 Exhibit K, # 15 Exhibit L, # 16 Exhibit M, # 17 Exhibit N, # 18 Exhibit O, # 19 Exhibit P, # 20 Exhibit Q, # 21 Exhibit R, # 22 Exhibit S, # 23 Exhibit T)(Baker, Denise) (Entered: 04/01/2011)
04/11/2011	32	REPLY to opposition to motion re 25 MOTION for Summary Judgment filed by STANLEY RICHARDSON, BRITTANY C. STRIBLING, LYNN WARWICK TAYLOR, THEODORE

DATE	NO.	DOCKET TEXT
		WESBY. (Attachments: # 1 Reply to Response to Statement of Material Facts, # 2 Exhibit 3A - Excerpts of Suber Deposition, # 3 Exhibit 9 - Criminal Case Docket Sheets) (Lattimer, Gregory) (Entered: 04/11/2011)
04/18/2011	33	Memorandum in opposition to re 31 MOTION for Summary Judgment filed by STANLEY RICHARDSON, BRITTANY C. STRIBLING, LYNN WARWICK TAYLOR, THEODORE WESBY. (Attachments: # 1 Exhibit Hunt Depo, # 2 Exhibit Chittaams Depo, # 3 Exhibit Suber Depo, # 4 Exhibit Espinosa Depo, # 5 Exhibit Campanale Depo, # 6 Exhibit Khan Depo, # 7 Exhibit Newman Depo, # 8 Exhibit Parker Depo, # 9 Exhibit Criminal Docket Sheet, # 10 Statement of Facts)(Lattimer, Gregory) (Entered: 04/18/2011)
04/26/2011	34	MOTION for Extension of Time to File Response/Reply *to Plaintiffs' Opposition to District Defendants' Motion for Summary Judgment* by A. CAMPANALE, DISTRICT OF COLUMBIA, EDWIN ESPINOSA, FARAZ KHAN, J. NEWMAN (Baker, Denise) (Entered: 04/26/2011)
04/28/2011		MINUTE ORDER granting 34 Motion for Extension of Time to File Response/Reply re 31 MOTION for

DATE	NO.	DOCKET TEXT
		Summary Judgment ; Set/Reset Deadlines: Replies due by 5/4/2011. Signed by Judge Robert L. Wilkins on 4/28/2011. (Wilkins, Robert) (Entered: 04/28/2011)
05/03/2011	35	Second MOTION for Extension of Time to File Response/Reply by A. CAMPANALE, DISTRICT OF COLUMBIA, EDWIN ESPINOSA, FARAZ KHAN, J. NEWMAN, ANDRE PARKER (Baker, Denise) (Entered: 05/03/2011)
05/04/2011		MINUTE ORDER granting 35 Motion for Extension of Time to File Response/Reply ; Set/Reset Deadlines: Replies due by 5/12/2011. Signed by Judge Robert L. Wilkins on 5/4/2011. (Wilkins, Robert) (Entered: 05/04/2011)
05/12/2011	36	REPLY to opposition to motion re 31 MOTION for Summary Judgment filed by A. CAMPANALE, DISTRICT OF COLUMBIA, EDWIN ESPINOSA, FARAZ KHAN, J. NEWMAN, ANDRE PARKER. (Baker, Denise) (Entered: 05/12/2011)
11/29/2011	37	SUPPLEMENTAL MEMORANDUM to re 33 Memorandum in Opposition, *to defendants motion for summary judgment* filed by NATASHA CHITTAMS, ALISSA COLE, JAMES DAVIS. (Attachments: # 1 Exhibit

DATE	NO.	DOCKET TEXT
		Judicial Summonses (Charging Documents))(Lattimer, Gregory) (Entered: 11/29/2011)
01/05/2012	38	NOTICE of filing supplemental documents by Defendants at the request of the court. Received in chambers via email on 11/29/11 (lcrlw1,) (Entered: 01/05/2012)
01/18/2012	39	MEMORANDUM AND OPINION on Defendants' Motion for Summary Judgment 31 and Plaintiffs' Motion for Summary Judgment 25 . Signed by Judge Robert L. Wilkins on 1/18/12. (lcrlw1,) (Entered: 01/18/2012)
01/18/2012	40	ORDER granting in part and denying in part 25 Plaintiffs' Motion for Summary Judgment; granting in part and denying in part 31 Defendants' Motion for Summary Judgment. Signed by Judge Robert L. Wilkins on 1/18/12. (lcrlw1,) (Entered: 01/18/2012)
		* * *
10/23/2012	57	NOTICE *of Filing of Proposed Order Dismissing Certain Claims* by A. CAMPANALE, DISTRICT OF COLUMBIA, EDWIN ESPINOSA, FARAZ KHAN, J. NEWMAN, ANDRE PARKER (Attachments: # 1 Text of Proposed Order Proposed Order dismissing certain claims)

DATE	NO.	DOCKET TEXT
		(Pittman, Jonathan) (Entered: 10/23/2012)
10/24/2012	58	ORDER DISMISSING CERTAIN CLAIMS WITH PREJUDICE: In light of Plaintiffs decision not to pursue certain claims, the Court hereby dismisses the following claims pursuant to Fed. R. Civ P. 41(a)(2) with prejudice:1. All claims for deprivation of civil rights under 42 U.S.C. § 1983 (Count I of the Complaint) against Defendant Officers Jason Newman, Edwin Espinosa and Faraz Khan, in their individual capacities, arising out of the arrest of plaintiffs for unlawful entry. 2. All claims for deprivation of civil rights under 42 U.S.C. § 1983 (Count I of the Complaint) against Defendant Officers Anthony Campanale, Andre Parker, Jason Newman, Edwin Espinosa and Faraz Khan, in their individual capacities, arising out of the arrest of plaintiffs for disorderly conduct. 3. All claims for false arrest (Count II of the Complaint) against Defendant Officers Jason Newman, Edwin Espinosa and Faraz Khan, in their individual capacities, arising out of the arrest of plaintiffs for unlawful entry. 4. All claims for false arrest (Count II of the Complaint) against Defendant Officers Anthony Campanale, Andre Parker, Jason

DATE	NO.	DOCKET TEXT
		Newman, Edwin Espinosa and Faraz Khan, in their individual capacities, arising out of the arrest of plaintiffs for disorderly conduct. Signed by Judge Robert L. Wilkins on 10/24/2012. (tcb) (Entered: 10/24/2012)
		* * *
11/01/2012		Minute Entry for proceedings held before Judge Robert L. Wilkins: Jury Selection begun and concluded on 11/1/2012. Eight (8) Jurors selected and sworn. Jury trial held and set to resume on Friday, November 2, 2012 at 9:30 AM in Courtroom 27A before Judge Robert L. Wilkins. (Court Reporter Rebecca Stonestreet) (tcb) (Entered: 11/01/2012)
11/02/2012		Minute Entry for proceedings held before Judge Robert L. Wilkins: Jury Trial held and resumed on 11/2/2012. Same eight (8) jurors. Jury Trial continued to 11/6/2012 at 9:15 AM in Courtroom 27A before Judge Robert L. Wilkins. Plaintiff's Witness: Natasha Chittams, Lynn Taylor, James Davis, Alissa Cole, Sandra Hunt, Juan C. Willis, Stanley Richardson and Clarence Baldwin. (Court Reporter Rebecca Stonestreet) (tcb) (Entered: 11/02/2012)
11/06/2012		Minute Entry for proceedings held before Judge Robert L. Wilkins: Jury

DATE	NO.	DOCKET TEXT
		Trial resumed and held on 11/6/2012. Same Eight (8) Jurors. Plaintiff's Witness: Brittany Stribling, Joseph Mayfield, Sidney Banks, Owen Gail, Theodore Wesby, Anthony Hood and Ethelbert Louis. Plaintiff's rest. Defendant's Oral Motion to Dismiss claims as to Plaintiff Gary Gordon; Heard and Denied. With respect to dismissal of claims as to Plaintiff Gary Gordon for punitive damages; Heard and taken under advisement. Jury Trial continued to 11/7/2012 at 9:30 AM in Courtroom 27A before Judge Robert L. Wilkins. (Court Reporter Rebecca Stonestreet) (tcb) . (Entered: 11/06/2012)
11/07/2012	67	NOTICE: Attached is the proposed Verdict Form the Court intends to use for the trial. The parties will have an opportunity to raise any objections and propose any revisions to this form. (lcrlw1) (Entered: 11/07/2012)
11/07/2012	68	NOTICE: Attached are the proposed Jury Instructions the Court intends to use for the trial. The parties will have an opportunity to raise any objections and propose any revisions to these instructions. (lcrlw1) (Entered: 11/07/2012)
11/07/2012		Minute Entry for proceedings held before Judge Robert L. Wilkins: Jury

DATE	NO.	DOCKET TEXT
		Trial resumed and held on 11/7/2012. Same Eight (8) Jurors. Defendants Witness: Anthony Campanale and Andre Parker. Defendants rest. Defendant's Oral Motion to Strike any claim for punitive damages and Oral Rule 50 Motion; Heard and DENIED for reasons stated on the record in open court. Defendant's Oral Motion to Reconsider Summary Judgment Ruling; Heard and DENIED for reasons stated on the record in open court. Jury Trial continued 11/8/2012 at 9:30 AM in Courtroom 27A before Judge Robert L. Wilkins. (Court Reporter Rebecca Stonestreet) (tcb) (Entered: 11/07/2012)
11/08/2012	69	NOTICE *of District Defendants' Request for Additional Jury Instruction* by A. CAMPANALE, DISTRICT OF COLUMBIA, ANDRE PARKER (Pittman, Jonathan) (Entered: 11/08/2012)
11/08/2012		Minute Entry for proceedings held before Judge Robert L. Wilkins: Jury Trial resumed and concluded on 11/8/2012. Same Eight (8) Jurors. Jury Deliberation held and concluded on 11/8/2012. Jury Verdict in favor of Plaintiffs Natasha Chittams, Lynn Taylor, James Davis, Alissa Cole, Sandra Hunt, Juan C. Willis,

DATE	NO.	DOCKET TEXT
		Stanley Richardson and Clarence Baldwin,Brittany Stribling, Joseph Mayfield, Sidney Banks, Owen Gail, Theodore Wesby, Anthony Hood and Ethelbert Louis and Gary Gordon against Officer Anthony Campanale, Officer Andre Parker and the District of Columbia. Jury panel discharged. (Court Reporter Chantal Geneus) (tcb) (Entered: 11/09/2012)
11/08/2012	70	ATTORNEYS' ACKNOWLEDGEMENT OF TRIAL EXHIBITS. (tcb) (Entered: 11/09/2012)
11/08/2012	71	Jury Notes(1). (tcb) (Entered: 11/09/2012)
11/08/2012	72	Signature Page of Foreperson in Jury Note. (Access to the PDF Document is restricted pursuant to the E-Government Act. Access is limited to Counsel of Record and the Court.). (tcb) (Entered: 11/09/2012)
11/08/2012	73	JURY VERDICT. (tcb) (Entered: 11/09/2012)
11/08/2012	74	Signature Page of Foreperson in Jury Verdict. (Access to the PDF Document is restricted pursuant to the E-Government Act. Access is limited to Counsel of Record and the Court.). (tcb) (Entered: 11/09/2012)
11/09/2012	75	CLERK'S JUDGMENT in favor of Plaintiffs Natasha Chittams, Lynn

DATE	NO.	DOCKET TEXT
		Taylor, James Davis, Alissa Cole, Sandra Hunt, Juan C. Willis, Stanley Richardson and Clarence Baldwin,Brittany Stribling, Joseph Mayfield, Sidney Banks, Owen Gail, Theodore Wesby, Anthony Hood and Ethelbert Louis and Gary Gordon against Officer Anthony Campanale, Officer Andre Parker and the District of Columbia. Signed by Judge Robert L. Wilkins on 11/9/2012. (tcb) (Entered: 11/09/2012)
11/26/2012	76	MOTION for Attorney Fees by CLARENCE BALDWIN, SIDNEY A. BANKS, JR, NATASHA CHITTAMS, ALISSA COLE, JAMES DAVIS, OWEN GAYLE, GARY GORDON, ANTHONY MAURICE HOOD, SHANJAH HUNT, ETHELBERT LOUIS, JOSEPH MAYFIELD, JR, STANLEY RICHARDSON, BRITTANY C. STRIBLING, LYNN WARWICK TAYLOR, THEODORE WESBY, JUAN C. WILLIS (Attachments: # 1 Exhibit 1-, # 2 Exhibit 2-, # 3 Exhibit 3-, # 4 Exhibit 4-, # 5 Exhibit 5-, # 6 Exhibit 6-)(Lattimer, Gregory) (Entered: 11/26/2012)
12/03/2012		MINUTE ORDER: The parties shall appear on January 28, 2013, at 10:00 A.M. in Courtroom 27A for a hearing on Plaintiffs' MOTION for Attorneys' Fees. Signed by Judge Robert

DATE	NO.	DOCKET TEXT
		L. Wilkins on 12/3/2012. (lcrlw3) (Entered: 12/03/2012)
12/03/2012		Set/Reset Hearings: Motion Hearing on Plaintiff's Motion for Attorneys' Fees set for 1/28/2013 10:00 AM in Courtroom 27A before Judge Robert L. Wilkins. (clv,) (Entered: 12/03/2012)
12/04/2012	77	Amended MOTION for Attorney Fees *and costs* by CLARENCE BALDWIN, SIDNEY A. BANKS, JR, NATASHA CHITTAMS, ALISSA COLE, JAMES DAVIS, OWEN GAYLE, GARY GORDON, ANTHONY MAURICE HOOD, SHANJAH HUNT, ETHELBERT LOUIS, JOSEPH MAYFIELD, JR, STANLEY RICHARDSON, BRITTANY C. STRIBLING, LYNN WARWICK TAYLOR, THEODORE WESBY, JUAN C. WILLIS (Attachments: # 1 Exhibit Lattimer's Calculation of Hours, # 2 Exhibit Berk's Calculation of Hours, # 3 Exhibit Lattimer's Affidavit, # 4 Exhibit Berk's Affidavit, # 5 Exhibit Laffey Matrix, # 6 Exhibit Bill of Costs) (Lattimer, Gregory) (Entered: 12/04/2012)
12/07/2012	78	NOTICE OF APPEAL TO DC CIRCUIT COURT re 39 , 40 & 75 by A. CAMPANALE, ANDRE PARKER, DISTRICT OF COLUMBIA. Fee

DATE	NO.	DOCKET TEXT
		Status: No Fee Paid. Parties have been notified. (Pittman, Jonathan) Modified on 12/10/2012 to add linkage (rdj). (Entered: 12/07/2012)
12/10/2012	79	Transmission of the Notice of Appeal, Order Appealed, and Docket Sheet to US Court of Appeals. The Court of Appeals docketing fee was not paid because the fee was an Appeal by the Government re 78 Notice of Appeal to DC Circuit Court. (rdj) (Entered: 12/10/2012)

* * *

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT

Docket No. 12-7127

THEODORE WESBY, ET AL,

v.

DC, ET AL,

RELEVANT DOCKET ENTRIES

DATE	DOCKET TEXT
12/13/2012	PRIVATE CIVIL CASE docketed. [12-7127]
12/13/2012	NOTICE OF APPEAL filed [1409897] by Anthony Campanale, DC and Andre Parker seeking review of a decision by the U.S. District Court in 1:09-cv-00501-RLW. Assigned USCA Case Number [12-7127]
	* * *
01/28/2013	MOTION filed [1417614] by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Ethelbert Louis, Joseph Mayfield, Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor, Theodore Wesby and Juan C. Willis for summary affirmance. (Response

DATE	DOCKET TEXT
	to Motion served by mail due on 02/11/2013) [Service Date: 01/28/2013 by CM/ECF NDA] Pages: 16-20. [12-7127] (Lattimer, Gregory)
01/30/2013	MOTION filed [1418099] by Anthony Campanale, DC and Andre Parker to extend time to file response to 03/04/2013. (Response to Motion served by mail due on 02/14/2013) [Service Date: 01/30/2013 by Email] Pages: 1-10. [12-7127] (Schifferle, Carl)
02/06/2013	TRANSCRIPT STATUS REPORT [1419089] by Anthony Campanale, DC and Andre Parker [Service Date: 02/06/2013]. Status of Transcripts: transcripts needed for the appeal have been ordered, but not all transcripts have been received. Next APPELLANT transcript status report due 03/08/2013. [12-7127] (Schifferle, Carl)
02/06/2013	CLERK'S ORDER filed [1419129] granting motion to extend time [1418099-2]; directing response to motion for summary affirmance [1417614-2] Response due on 03/04/2013 [12-7127]
02/27/2013	TRANSCRIPT STATUS REPORT [1422518] by Anthony Campanale, DC and Andre Parker [Service Date: 02/27/2013]. Status of Transcripts:

DATE	DOCKET TEXT
	Final - All transcripts needed for the appeal have been completed and received. [12-7127] (Schifferle, Carl)
02/27/2013	MOTION filed [1422724] by Anthony Campanale, DC and Andre Parker to extend time to file response to 03/11/2013. (Response to Motion served by mail due on 03/14/2013) [Service Date: 02/27/2013 by Email] Pages: 1-10. [12-7127] (Schifferle, Carl)
03/11/2013	MODIFIED EVENT FROM FILED TO LODGED—RESPONSE IN OPPOSITION LODGED [1424622] by Anthony Campanale, DC and Andre Parker to motion for summary affirmance [1417614-2] [Service Date: 03/11/2013 by Email] Pages: 16-20. [12-7127]]—[Edited 03/11/2013 by JMC] (Schifferle, Carl)
03/12/2013	CLERK'S ORDER filed [1424794] granting motion to extend time [1422724-2]; the Clerk is directed to file response [1424622-2] [12-7127]
03/12/2013	PER ABOVE ORDER lodged response [1424622-2] is filed [12-7127]
03/20/2013	REPLY FILED [1426472] by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Ethelbert Louis, Joseph Mayfield,

DATE	DOCKET TEXT
	Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor, Theodore Wesby and Juan C. Willis to response [Service Date: 03/20/2013 by CM/ECF NDA] Pages: 1-10. [12-7127] (Lattimer, Gregory)
04/15/2013	INCORRECT DOCKET ENTRY-DISREGARD—MOTION filed [1430863] by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Ethelbert Louis, Joseph Mayfield, Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor, Theodore Wesby and Juan C. Willis for summary affirmance. (Response to Motion served by mail due on 04/29/2013) [Service Date: 04/15/2013 by CM/ECF NDA] Pages: 1-10. [12-7127]—[Edited 04/16/2013 by JMC] (Lattimer, Gregory)
05/31/2013	PER CURIAM ORDER filed [1438825] denying motion for summary affirmance [1417614-2]. The Clerk is instructed to calendar this case for presentation to a merits panel. Before Judges: Henderson, Griffith and Kavanaugh. [12-7127]
06/10/2013	CLERK'S ORDER filed [1440417] setting briefing schedule: APPEL-

DATE	DOCKET TEXT
	LANT Brief due 07/30/2013. Appendix due 07/30/2013. APPELLEE Brief due on 08/29/2013. APPELLANT Reply Brief due 09/12/2013 [12-7127]
07/30/2013	APPELLANT BRIEF [1449330] filed by Anthony Campanale, DC and Andre Parker [Service Date: 07/30/2013] Length of Brief: 11,288 Words. [12-7127] (Schifferle, Carl)
07/30/2013	JOINT APPENDIX [1449331] filed [Volumes: 1] [Service Date: 07/30/2013] [12-7127] (Schifferle, Carl)
09/03/2013	APPELLEE BRIEF [1454456] filed by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Ethelbert Louis, Joseph Mayfield, Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor and Theodore Wesby [Service Date: 09/03/2013] Length of Brief: 12,450. [12-7127] (Lattimer, Gregory)
09/12/2013	APPELLANT REPLY BRIEF [1456292] filed by Anthony Campanale, DC and Andre Parker [Service Date: 09/12/2013] Length of Brief: 6, 502 Words. [12-7127] (Schifferle, Carl)
01/24/2014	CLERK'S ORDER filed [1476559] scheduling oral argument before Judges BROWN, PILLARD,

DATE	DOCKET TEXT
	EDWARDS Thursday, 03/27/2014 AM [12-7127]
03/12/2014	PER CURIAM ORDER filed [1483523] allocating oral argument time as follows: Appellants – 10 Minutes, Appellees – 10 Minutes. One counsel per side to argue; directing party to file Form 72 notice of arguing attorney - due 03/20/2014 [12-7127]
03/12/2014	FORM 72 submitted by arguing attorney, Gregory L. Lattimer, on behalf of Appellees Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Edwin Espinosa, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Faraz Khan, Ethelbert Louis, Joseph Mayfield, J. Newman, Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor, Theodore Wesby and Juan C. Willis. [12-7127] (Lattimer, Gregory)
03/20/2014	FORM 72 submitted by arguing attorney, Carl J. Schifferle, on behalf of Appellants Anthony Campanale, DC and Andre Parker. [12-7127] (Schifferle, Carl)
03/27/2014	ORAL ARGUMENT HELD before Judges Brown, Pillard and Edwards. [12-7127]

DATE	DOCKET TEXT
05/28/2014	LETTER FILED [1494907] by Anthony Campanale, DC and Andre Parker pursuant to FRAP 28j advising of additional authorities [Service Date: 05/28/2014] [12-7127] (Schifferle, Carl)
06/02/2014	MODIFIED EVENT – LETTER FILED [1495726] filed by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Ethelbert Louis, Joseph Mayfield, Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor, Theodore Wesby and Juan C. Willis [Service Date: 06/02/2014] pursuant to FRAP 28j advising of additional authorities. [12-7127]—[Edited 06/03/2014 by JMC] (Lattimer, Gregory)
06/03/2014	CORRECTED LETTER FILED [1495853] by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Ethelbert Louis, Joseph Mayfield, J. Newman, Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor, Theodore Wesby and Juan C. Willis pursuant to FRAP 28j advising of additional authorities [Service Date:

DATE	DOCKET TEXT
	06/03/2014] [12-7127] (Lattimer, Gregory)
09/02/2014	PER CURIAM JUDGMENT filed [1510150] that the judgment of the District Court appealed from in this cause is hereby affirmed, for the reasons in the accompanying opinion. Before Judges: Brown, Pillard and Edwards. [12-7127]
09/02/2014	OPINION filed [1510152] (Pages: 29) for the Court by Judge Pillard, DISSENTING OPINION (Pages: 12) by Judge Brown, [12-7127]
09/02/2014	CLERK'S ORDER filed [1510154] withholding issuance of the mandate. [12-7127]
09/15/2014	MOTION filed [1512353] by Anthony Campanale, DC and Andre Parker to extend time to file petition to 11/03/2014. (Response to Motion served by mail due on 09/29/2014) [Service Date: 09/15/2014 by Email] Pages: 1-10. [12-7127] (Schifferle, Carl)
09/16/2014	RESPONSE IN OPPOSITION FILED [1512559] by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Ethelbert Louis, Joseph Mayfield, Stanley Richardson, Brittany C. Stribling, Lynn Warwick

DATE	DOCKET TEXT
	Taylor, Theodore Wesby and Juan C. Willis to motion to extend time [1512353-2] [Service Date: 09/16/2014 by CM/ECF NDA] Pages: 1-10. [12-7127] (Lattimer, Gregory)
09/16/2014	BILL OF COSTS FILED [1512561] by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Ethelbert Louis, Joseph Mayfield, J. Newman, Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor, Theodore Wesby and Juan C. Willis [Service Date: 09/16/2014] [12-7127] (Lattimer, Gregory)
09/19/2014	SUPPLEMENT [1513303] to motion to extend time [1512353-2] filed by Anthony Campanale, DC and Andre Parker [Service Date: 09/19/2014] [12-7127] (Schifferle, Carl)
09/23/2014	PER CURIAM ORDER filed [1513560] that the motion be granted [1512353]. Any petition for rehearing and/or rehearing en banc is now due on or before November 3, 2014. No further extensions of time will be granted. Before Judges: Brown, Pillard and Edwards. [12-7127]

DATE	DOCKET TEXT
11/03/2014	PETITION filed [1520453] by Appellants Anthony Campanale, DC and Andre Parker for rehearing en banc. [Service Date: 11/03/2014 by Email] Pages: 11-15. [12-7127] (Schifferle, Carl)
11/05/2014	CLERK'S ORDER filed [1520841] Upon consideration of appellants' petition for rehearing en banc, it is ORDERED, on the court's own motion, that, within 15 days of the date of this order, appellees Wesby, et al., file a response to the petition for rehearing en banc. The response may not exceed 15 pages. Absent further order of the court, the court will not accept a reply to the response. [12-7127]
11/13/2014	LETTER FILED [1522220] by Anthony Campanale, DC and Andre Parker pursuant to FRAP 28j advising of additional authorities [Service Date: 11/13/2014] [12-7127] (Schifferle, Carl)
11/20/2014	RESPONSE FILED [1523580] by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Ethelbert Louis, Joseph Mayfield, J. Newman, Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor, Theodore

DATE	DOCKET TEXT
	Wesby and Juan C. Willis to petition for rehearing en banc [1520453-2] [Service Date: 11/20/2014 by CM/ECF NDA] Pages: 11-15. [12-7127] (Lattimer, Gregory)
01/28/2015	MOTION filed [1535596] by Antoinette Colbert to substitute party Antoinette Colbert for Ethelbert Louis (Response to Motion served by mail due on 02/12/2015) [Service Date: 01/28/2015 by US Mail] Pages: 1-10. [12-7127]
02/04/2015	CONSENT RESPONSE IN SUPPORT FILED [1535828] by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Ethelbert Louis, Joseph Mayfield, J. Newman, Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor, Theodore Wesby and Juan C. Willis to motion to substitute party or change name [1535596-2] [Service Date: 02/04/2015 by CM/ECF NDA, Email] Pages: 1-10. [12-7127] (Lattimer, Gregory)
02/13/2015	CLERK'S ORDER filed [1537585] granting motion to substitute party or change name [1535596-2] Ethelbert Louis in 12-7127 substituted by Antoinette Colbert in 12-7127 [12-7127]

DATE	DOCKET TEXT
11/10/2015	LETTER [1583051] filed by Anthony Campanale, DC and Andre Parker pursuant to FRAP 28j advising of additional authorities [Service Date: 11/10/2015] [12-7127] (Schifferle, Carl)
11/13/2015	RESPONSE [1583637] filed by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Joseph Mayfield, Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor, Theodore Wesby and Juan C. Willis to letter Rule 28j authorities [1583051-2], letter [1583051-3] [Service Date: 11/13/2015 by CM/ECF NDA] Pages: 1-10. [12-7127] (Lattimer, Gregory)
11/17/2015	AMENDED CERTIFICATE OF SERVICE [1583946] to response [1583637-2] filed by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Joseph Mayfield, Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor, Theodore Wesby and Juan C. Willis. [12-7127] (Lattimer, Gregory)
02/08/2016	PER CURIAM ORDER, En Banc, [1597780] (IN SLIP OPINION

DATE	DOCKET TEXT
	FORMAT) filed denying petition for rehearing en banc [1520453-2] Before Judges: Garland, Henderson,** Rogers, Tatel, Brown,** Griffith, Kavanaugh,** Srinivasan, Millett, Pillard,** and Wilkins*. * Circuit Judge Wilkins did not participate in this matter. ** Circuit Judges Henderson, Brown, Griffith, and Kavanaugh would grant the petition for rehearing en banc. ** A statement by Circuit Judge Pillard and Senior Circuit Judge Edwards, concurring in the denial of rehearing en banc, is attached. Pursuant to Fed. R. App. P. 35(a), Senior Judge Edwards, a member of the merits panel, did not participate in the vote whether to grant rehearing en banc. ** A statement by Circuit Judge Kavanaugh, with whom Circuit Judges Henderson, Brown, and Griffith join, dissenting from the denial of rehearing en banc, is attached. [12-7127]
02/08/2016	Publishing Order [1597780-2] [12-7127]
02/16/2016	MOTION [1598870] filed by Anthony Campanale, DC and Andre Parker to stay mandate (Response to Motion served by mail due on 02/29/2016) [Service Date: 02/16/2016 by Email]

DATE	DOCKET TEXT
	Pages: 1-10. [12-7127] (Schifferle, Carl)
02/22/2016	RESPONSE IN OPPOSITION [1600174] filed by Clarence Baldwin, Sidney A. Banks, Natasha Chittams, Antoinette Colbert, Alissa Cole, James Davis, Owen Gayle, Gary Gordon, Anthony Maurice Hood, Shanjah Hunt, Joseph Mayfield, Stanley Richardson, Brittany C. Stribling, Lynn Warwick Taylor, Theodore Wesby and Juan C. Willis to motion to stay mandate [1598870-2] [Service Date: 02/22/2016 by CM/ECF NDA] Pages: 1-10. [12-7127] (Lattimer, Gregory)
02/25/2016	PER CURIAM ORDER [1600791] filed denying motion to stay mandate [1598870-2]. Before Judges: Brown*, Pillard and Edwards. * Circuit Judge Brown would grant the motion. [12-7127]
03/03/2016	PER CURIAM ORDER [1602148] filed granting appellees' bill of costs in the amout of $103.18 [1512561-2] [12-7127]
03/03/2016	MANDATE ISSUED to Clerk, District Court [12-7127]
04/18/2016	LETTER [1609679] received from the Clerk of the Supreme Court of the United States notifying this court that the time for filing a petition for

DATE	DOCKET TEXT
	writ of certiorari has been extended to: 06/08/2016. [12-7127]
06/13/2016	LETTER [1620571] received from the Clerk of the Supreme Court of the United States notifying this court of the following activity in the case before it: A petition for writ of certiorari was filed and placed on the docket on 06/08/2016 as No. 15-1485. [12-7127]
01/19/2017	LETTER [1656954] received from the Clerk of the Supreme Court of the United States notifying this court of the following activity in case No. 15-1485: The motion of International Municipal Lawyers Association, Inc. for leave to file a brief as amicus curiae is granted. The petition for writ of certiorari was granted on 01/19/2017. [12-7127]

[1] UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

C.A. No. 09-501 (RWR)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Wednesday, March 31, 2010
Washington, D.C.

The deposition of SANJAH LEAH HUNT was called for examination by counsel for Defendants in the above-entitled matter, pursuant to notice, in the Offices of Attorney General for the District of Columbia, 441 Fourth Street, Northwest, Washington, D.C., convened at 10:15 a.m. before Jonell Easton, a notary public, when were present on behalf of the parties:

* * *

[8] Q. 10:00 p.m. on the evening of March 15, is that correct?

A. Yes, sir.

Q. What was the purpose of you being there?

A. I was there to do a bachelor party.

Q. How were you informed, who informed or asked you to go to that address to do a bachelor party?

A. Ms. Tasha.

Q. Do you know her full name?

A. No, sir, I do not.

Q. Was Tasha there that evening?

A. Yes.

Q. Do you know an individual by the name of Peaches?

A. Yes, I do.

Q. Who is that?

A. That is the person's house was supposed to be.

Q. Who told you that was Peaches' house?

A. She did out of her own mouth.

[9] Q. Did you know Peaches prior to this evening?

A. I have seen her a couple of times, other than that I don't know her.

Q. Do you know where she lives?

A. No, I thought that was her address.

Q. Had you been to 115 Anacostia Road, N.W. prior to March 15, 2008?

A. One time before.

Q. When was that?

A. I couldn't honestly tell you because it was so long ago, but I can say about a month or so before then.

Q. Do you know the name of the bachelor?

A. No, sir, I do not.

Q. What was your understanding of what activities would be going on at 115 Anacostia Road?

A. We went there to do a bachelor party, so we was there to entertain.

Q. Did you entertain?

A. We didn't get started really.

* * *

[22] A. I told them it was Peaches, Peaches' house, she allowed us to be here.

Q. How long were you at – you were brought to Sixth District. Correct?

A. I believe that was Sixth District, yes.

Q. How long were you at Sixth District before you were released?

A. I was the last one to be released, I was in there at at least 18 hours.

Q. What time were you released?

A. In the afternoon about 3:00 or 4:00 in the afternoon, if not later.

Q. Do you know why you were there so long?

A. No, sir. I not.

Q. Did you ask anybody why?

A. They wouldn't give us any information, they were more laughing and joking at us

Q. At some point they changed the charge from unlawful entry to disorderly conduct. Do you know when?

A. They changed the charge about four, five [23] times.

Q. First it was unlawful entry?

A. Yes.

Q. What was the second charge?

A. Indecent exposure and they switched it to enter, I mean there without a lease or something of that nature and they changed it to disorderly conduct.

Q. When you say they, did someone tell you – some police officer?

A. Yeah, there was several police officers coming back – what are you here for, you shouldn't be here for this.

Q. Do you know what police officer told you that?

A. No, sir, I couldn't tell you, there was so many different ones coming to us, I couldn't honestly tell you.

Q. Under what conditions were you released?

A. I had to pay a fine.

Q. How much?

[24] A. I think it was $35.

Q. Did there come a time when the police actually let you leave the station and then they asked you to come back and they changed the charge – did that ever happen?

A. No.

Q. So I am clear the only conduct – the conduct that you described that you saw going on there was people standing around talking and drinking a beer?

A. Yes, and one girl was giving a lap dance and that is it.

Q. That is the only thing that you saw?

A. Yes.

Q. Were you aware there were pictures taken of women who had dollar bills in a garter belt?

A. Yes.

Q. Do you know how many women there were?

A. That I know of – it was at least two or three they took pictures with money in the garter belts.

[25] Q. Did you ever observe how the money got in the garter belts?

A. Most women – we don't leave money in our purse when we go off the floor, we put our money in the garter belts, so we can keep it so no one steals it, could have been a couple of them that had money, I don't know where the money came from

Q. Did you see any of the men hand the women money?

A. No.

Q. Did you see any of the men stick money in the garter belts?

A. No, sir.

Q. Were you paid for attending the bachelor party?

A. No, sir.

Q. When I say were you paid I mean by anybody, paid an entertainment fee or anything?

A. No, sir.

Q. Do you know an individual by the name of Damien Hughes?

* * *

[1] UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Case No. 09-501 (RWR)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Thursday, April 8, 2010
Washington, D.C.

Deposition of NATASHA NICOLE CHITTAMS

the plaintiff, called for examination by counsel for the defendants, pursuant to notice, held in the Office of the Attorney General, 441 Fourth Street, N.W., 6th Floor South, Washington, D.C. 20001, beginning at 2:21 p.m., before Kelly Susnowitz, a Notary Public in and for the District of Columbia, when were present on behalf of the respective parties:

* * *

[10] A. The night we got arrested.

Q. Do you know a woman by the name – that goes by the name of Peaches?

A. No.

Q. Did you ever hear that before?

A. No.

Q. Do you know a [redacted]?

A. Yes.

Q. Where do you know Mr. Taylor from?

A. He's my godbrother.

Q. He's your godbrother?

A. Yes.

Q. Tell me, how did he become your godbrother?

A. I mean, we just known each other for so many years and, you know, we were always together, so people thought we were sisters and brothers, so we be, like, yeah, we're sisters and brothers.

Q. Do you know or did you know a person by the name of Brittany Stribling?

A. I just know her as being my brother's [11] girlfriend.

Q. When you say your brother, you're talking about Mr. Taylor?

A. Yes.

Q. Do you know anything else about her?

A. She goes to Howard.

Q. Did she ever work for you?

A. No.

Q. Do you know if she ever worked at any strip club?

A. Not to my knowledge.

Q. Did Mr. Taylor ever tell you about a dancer that he had heard of by the name of Peaches?

A. No.

Q. At some point, Ms. Chittams, you ended up at 115 Anacostia Road in Northeast, Washington, on March 15th of 2008; is that correct?

A. Yes.

Q. Had you ever been there before?

A. One time.

[12] Q. Who did you go there with?

A. Tasty.

Q. When was that, prior to March?

A. It was, like, a week or two prior to that.

Q. Was there furniture in the house?

A. It was chairs and she had a bed and shower curtains and stuff. She said she just moved in, so it looked like people just moving in, just a bathroom set, a bed right now. There was food in the refrigerator.

Q. Did you ask or did Tasty tell you who owned that house?

A. No.

Q. Did you ask or did Tasty tell you that she was renting the house?

A. No. I assumed, because she had keys and she just walked into the house.

Q. How is it, that on March 15th, you came to be at 115 Anacostia Road?

A. Tasty said she knew a guy that was having a bachelor party and she needed some more girls to [13] come through, so I just called some girls and told them to come over to the residence.

Q. And the girls that you called, are these girls that you know?

A. I know from meeting at the club, yes.

Q. And so you had their phone numbers somewhere on you, either on your cell phone or –

A. At that moment, yes.

Q. When did you know that there was going to be this party at 115 Anacostia Road?

A. I knew, say, the party started like 10:00. I knew, like, a couple hours beforehand, so about 7:00 or 8:00 or so.

Q. Did you – were you doing events at that time?

A. Yes. I had just, like, really started getting into the adult entertainment part of it, so I was, you know, going to meet the girls and letting myself be known that this is what I do and stuff.

Q. Whatever experience you had, was it [14] unusual that you would get a call just a couple of hours before an event would take place?

A. No.

Q. The girls or the women that you called, how were they going to be paid for attending this – would you call this an event?

A. Yes, it's considered an event. They would work on tips, meaning, whatever the guys gave them for dancing, is what they made.

Q. Were they given, for example, a certain amount of money just to show up?

A. No.

Q. And did they have to pay you some kind of fee or did you charge them a certain percentage?

A. No.

Q. So any money that they made that night was their own money?

A. Correct.

Q. And it's also correct that you never promised to pay them anything just to show up?

A. No.

[15] Q. What time did you arrive?

A. I want to say maybe, like, 10:00.

Q. You got there at 10:00 and, when you got there, who was there?

A. We actually all, kind of, like, me and the girls and Tasty got there at the same time.

Q. Who were the girls that were with you?

A. I don't remember. It's been two years.

Exactly, which girls – I know Lexis was there. Lola with there. To be honest, I really can't, like, say the names off the top of my head of who was there.

Q. Do you know Lexi's full name or real name?

A. I don't know none of the dancers by their original names.

Q. And that would be the same for Lola?

A. Yes.

Q. When is the last time you saw Lexi?

A. Everybody, as far as girls, I have not seen none of them since we all got arrested.

Q. Is there any reason why that is?

[16] A. I don't know. I can't answer that.

Q. Have you seen Tasty since this event?

A. No.

Q. I'm going to show you a series of pictures, as I showed other individuals and, again, for the record, it is Exhibit 3, attached to the District's initial disclosure, and it contains 18 pictures and the first several pictures are of individuals. I would like for you to look at those pictures and tell me, who, if anybody, you recognize?

A. I remember her, but I don't remember her name.

Q. Again, the picture you're pointing to is the one that has the –

A. Three, eighteen pics.

Q. Has Defendant's Exhibit 3, with 18 pics on it?

A. Right. I don't remember her name, but she used to work at Irving's.

Q. Have you seen her since?

[17] A. No, I haven't seen any of the girls since.

Q. Before you go on, when you say, you don't remember her name, are you talking about her real name or her stage name?

A. I don't know her by her real name. I just know her – I mean, I don't remember her stage name. I just know her face. I don't remember her stage name or her biological name. I can't see her face, so I don't know. I remember him.

Q. Do you know him?

A. I know him by a nickname.

Q. What's his nickname?

A. Porn Star.

Q. Where does he get the name Porn Star from?

A. I mean, that's what he had tattooed on his hand, so.

Q. Do you know him from any of the clubs that you –

A. I actually know him – I'm not sure if he owns it or runs it, he runs a car lot.

Q. Do you know if this individual is one of

* * *

[26] Q. At some point, did other people come upstairs?

A. They had to, for the bathroom, because it was only one bathroom, so you had to come up the steps to go to the bathroom.

Q. Did anybody, who came up the steps, go into the room where you were at?

A. Just the girls.

Q. Were any of the men, with you that night, upstairs?

A. Well, not too later, but like, Louis came upstairs and James was upstairs in the bathroom.

Q. James' last name is what?

A. I don't know.

Q. And who is Louis?

A. The guy that just left here.

Q. You don't know his first name?

A. I just know, Louis.

Q. Anybody else?

A. And Fuzzy, those were the men that were upstairs.

[27] Q. Other than the dancers, were any of the women upstairs with you?

A. Brittany was upstairs with me and, I think, it was Lexis who was upstairs with me, too.

Q. Was Lexis one of the dancers?

A. Yes.

Q. Now, when you were upstairs, do you recall there being a chair inside of a closet?

A. No.

Q. No?

A. I mean, the room I was in, you could see the closet. It's not a big closet. It's not even a walk-in closet, so I was only in one room.

Q. When you were upstairs, did you see any of the women giving any of the people upstairs a lap dance?

A. No. No men was allowed upstairs, unless they were using the bathroom.

Q. So when you said that Fuzzy and Louis and James were upstairs, they just came up to use the bathroom and went back downstairs?

[28] A. Well, James was in the bathroom and, yes, he would have walked back downstairs, and Louis was talking to Fuzzy, so. I mean, I knew they knew each other, so I didn't think, like, he would be, like, a problem sitting there talking to Fuzzy, so.

Q. At some point, did somebody order food?

A. Yes, I ordered food. I'm greedy.

Actually, me and the girls ordered food. There was a lot of carryout food, as I'd seen in your pictures, it was from the women.

Q. Did any of the men order food?

A. No, not that I can recall. I think that was just all the girls.

Q. Was the food that you ordered for everybody there or just for the girls?

A. No, that's what we ordered to eat. It was just for us.

Q. It was just for the girls?

A. Yes.

Q. What was Louis doing when he was upstairs?

[29] A. Standing in the hallway. I mean, this is, like, a very, very small nit place, so he was standing in the hallway talking.

Q. Did he have any of the food that you guys ordered?

A. No. By the time he got there, the food was already gone.

Q. Did he have his own food?

A. Not that I recall. I don't recall him having anything.

Q. Nothing that night?

A. No.

Q. Now, at some point, did you become aware that there were police in the house?

A. Not until they came up with their guns saying, get downstairs, get downstairs, but they took us down one at a time.

Q. Now, at the time that the police came upstairs or the time that you were aware that there were people coming upstairs, where was Fuzzy or Mr. Taylor?

[30] A. He was in one – the bedroom.

Q. Was that the same room that you were in?

A. No. It's like a room here, a room here and, like, the bathroom here. I was in this room. He was in this room.

Q. Do you know how long he had been in the room, that he was in, prior to you became aware that the police were coming upstairs?

A. No.

Q. Do you know how long he was not in the room, that you were in, prior to the police coming upstairs?

A. He was just in and out. Like I said, it was so small, you just want to walk around, so he was, like, basically, like, walking, so I mean, maybe a minute, two minutes.

Q. In the other room – let me show you these pictures again. Again, it's the same pictures I just showed you and I want you to take a look at the pictures of the different rooms and I want you to tell me which room, that you recognize, that [31] you were in, if any, shown in these pictures?

A. This is the kitchen.

Q. Uh-huh. That's the picture with the countertop and the food on the counter?

A. Yeah, I don't know. I guess this is the kitchen, too. That's the trash, so I'm assuming that's the kitchen. I think this looks like the living room.

Q. Okay.

A. This was the room I was in.

Q. Okay.

A. Yeah, because that was the chair I was sitting in, because I didn't want to sit on the floor. It looked dirty. This was the big room.

Q. The big room?

A. Because this room, I guess, is supposed to be the master. They're all little, I mean. This was – I wasn't in this room.

Q. Do you know if that was the room that Mr. Taylor was in?

A. Yes.

[32] Q. Let's have –

A. Because there is only two rooms and we was in this room, so.

MR. JACKSON: Let's have this picture marked as Chittams 1.

(Deposition Exhibit No. 1 was marked for identification.)

Q. So what has been marked as Exhibit 1 is a picture that you have stated, that you believe, that's the room that Mr. Taylor was in, and that's the time the police came upstairs?

A. Yes, that's the same room?

Q. The last picture here, that is Exhibit 1 –

A. I don't know what that is.

Q. Do you know which room that is?

A. No.

Q. So when the police came upstairs, what happens?

A. They was, like, come down, come down, with their guns, so Louis was standing right there.

[33] They brought him down first. Then they banged on the bathroom door and James was in there, so they were pushing, like, the door open, like, trying to get in. Like I said, me and Brittany and, I'm assuming, I think it was Lexi, was in the room. They brought everybody down one at a time and my brother, Fuzzy, was the last one they brought down.

Q. Did you hear the police say anything to Fuzzy?

A. No. I was already downstairs.

Q. You were already downstairs?

A. Yes.

Q. When you were downstairs, did you hear anything that sounded like a thump coming from the upstairs?

A. No. I mean, I could hear people walking. I mean, you know, there was no carpet on the floor, so I mean –

Q. It's a hardwood floor?

A. Yes. So there was no big – like,

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[1] UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 09-571 (rmc)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Deposition of SERGEANT ANDRE SUBER
Washington, D.C.
Tuesday, April 6, 2010
1:57 P.M.

Job No.: 1-176947
Pages: 1-46
Reported by: Denice Z. Lombard, CSR

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* * *

[11] I responded to the location.

Q All right. And that was because you were the official?

A Yes, sir.

Q So when you responded to the location, what happened?

A When I got to the house I observed all the subjects, along with the female, they were sitting on the floor.

Q Where?

A I believe in the living-room area.

Q Okay.

A And by the front door, living room area, leading around to the kitchen, and some were on the other side of the door leading around to the upstairs.

Q Now, how could you see these people? Were lights on?

A They had one or two lights on, yes.

Q So electricity was in the house.

A Yes.

Q All right. So then what happened?

A Then after I had them to debrief me as to what

* * *

[17] illegal, right?

A As far as what?

Q Anything.

A Them being there was illegal.

Q Well, you didn't – What information did you have that indicated that at that point?

A I asked them who's house this was.

Q What I'm asking you is before you get to that point, when you're being briefed by the officers, my question is, at that point you had no reason to believe that any illegal activity had taken place, right?

A In the course of their debriefing, one of the questions I asked that, who house, whose – what owner – is the owner on the scene of this particular establishment. They said no.

And I asked, "Well, who – is someone renting the house?" They said no. Then they began to tell me about some young laid who claimed to be renting the house. And she couldn't provide proof, and she wasn't on the scene at the location.

So after they told me that, they then added the other stuff in reference to people upstairs and [18] downstairs and all that kind of stuff, and then the question that I began to ask them again as to who gave them permission to be here.

Q Okay.

A And no one at that location could provide me a name or a number of the owner. They only gave a name of someone, I believe the name was Peaches. We called Peaches several times on the phone, a female. We asked her, "Who gave you permission to be inside this house?" She said no one.

She said she was possibly renting the house from the owner who was fixing the house up for her. And that she gave the people who were inside the place, told them they could have the bachelor party.

Q Okay.

A I asked her again who gave her permission to give them permission to come into an establishment or house that's not under her control. The she became evasive and hung up the phone.

Q Okay.

A I called her back. She again began yelling saying that she had permission – she didn't know the [19] owner's name, but she had permission to be inside the residence because she was going to rent the place out. Then she hung up again.

We had the detective, Detective Sepulveda, come to the scene, and he talked to her on the phone. And then through his conversation she stated that she didn't have permission to be inside the location.

At that time they all were there unlawfully.

Q So she told them that they could be there, right?

A Yes.

Q Okay. And then you all determined that she didn't have the right to tell them that they could be there, right?

A Yes, sir.

Q And then because she told them – gave them misinformation, you then arrested the people who thought they had a legal right to be there.

A If a person comes to a location, it's upon them, their responsibility, to find out if they can in fact be at a residence lawfully.

Q Okay. So let me understand this. If an

* * *

[24] he does as far as the investigative process, they have their own paperwork. But the officers completed their arrest paperwork once they got to the Sixth District.

Q What I'm asking is, did the detective put anything in writing regarding any of this?

A I have no idea what the detective did.

Q Did you put anything in writing regarding any of this?

A No, sir.

Q Why?

A Because it just wasn't my scene I was supervising the scene, and it's not my position to provide or to give – to write down any information. The officers that was there was writing all the information that was being provided to us.

Q But you were the person that authorized the arrest for unlawful entry, right?

A Yes, sir.

Q So do you say it wasn't your scene?

A That was my scene to supervise, but the officers, once they had control over the scene, then they called me. By that time they had gathered all the

* * *

[28] as of yet.

Q So that's what you heard her say.

A Yes, sir.

Q But you didn't write that down nowhere?

A No, sir.

Q And you don't know whether the detective wrote that down anywhere.

A No, sir.

Q So then why were these charges changed to disorderly conduct?

A Because Lieutenant Netter, who came on as the day watch commander, decided that because he was the watch commander, that he was not going to let 21 people sit in the cell, and that he was going to change the charges.

So he called the commander, and he called the inspector. They came down that Saturday morning, and then they all got together and they called the U.S. attorney general's office. They got together and said that we should have locked up one person, and then everyone else would have been able to leave.

I provided him with the D.C. code of the [29] unlawful entry statute. And he stated that he didn't care, and that he was going to release these people.

So I say, "You're the watch commander, I'm a sergeant, you have that authority and I don't." So then he said he was going to release them to detention journal.

So once the lieutenant got that process rolling, the commander Contee and Inspector Anderson, they came in, and they went up and they all got together, collaborated their facts, and they decided they were going to release everyone. So they then released everyone.

Then maybe about five, maybe 10 minutes later the Attorney General Office called – someone, a representative from the Attorney General office called and said, "Lock them up for disorderly conduct, loud voices."

I advised them that that statute does not fit this particular crime. However, Lieutenant Netter said he was the watch commander, I was a sergeant, that he was going to do it.

So by this moment, at this time they had [30] already released everyone, and they was getting their stuff at the front counter. So once they found out that they was going to lock them up for disorderly conduct, they got everybody back, brought them back to the cell, processed them for disorderly conduct, let them pay out, and that was it. I left and went home.

Q So let me understand this. Lieutenant Netter is the watch commander.

A He was the watch commander for day work, for the day work tour of duty.

Q This happened on what tour?

A On the midnight tour, which is the – the midnight tour starts the next day.

Q Right. After midnight.

A Yes.

Q So who would have been the watch commander?

A For the midnight tour it was Captain Mitchell.

Q All right. So was Captain Mitchell involved in this?

A She wasn't involved, because she had to respond to another location that she had to go out to. And I kept her abreast as to what was going on.

[31] Q Who was acting?

A Me.

Q So you were acting.

A Yes.

Q You were acting watch commander.

A Yes.

Q Okay. All right. So when you apprised Captain – you said Mitchell?

A Yes, sir.

Q What did she say?

A She was okay with my decision.

Q And then Lieutenant Netter came in at what time?

A I believe came in at 5 o'clock I believe. I'm not sure.

Q And so these people were still locked up.

A Yes, sir.

Q You were still on duty at that point?

A Yes, sir.

Q All right. So at that point – and I assume Captain Mitchell was still on duty at that point.

A She'd been relieved, and she already left.

[32] Q She left early?

A Well, once Lieutenant Netter assumes the watch commander position at that time for the day work tour, then she's released, she goes home.

Q I got it. All right. So Lieutenant Netter comes in, and I take it you and he had a conversation about this.

A Yes, sir.

Q All right. And he was of the opinion that all of those people shouldn't have been arrested.

A Yes, sir.

Q Only one.

A Yes.

Q The person who gave them permission to be there.

A He didn't say.

Q He didn't say.

A He didn't say as long as you locked up one person.

Q You disagreed with that.

A Yes, sir.

Q And you showed him the code.

* * *

[37] but the person who gave them permission didn't have legitimate permission to do what she did, then those people should be arrested for unlawful entry.

A Repeat the question?

Q Sure. The people who were there who believed that they had permission from Peaches should be arrested for unlawful entry if, in fact, Peaches did not have the right to give them permission?

MR. JACKSON: Objection.

You can answer the question.

THE WITNESS: Are you asking me – I'm trying to clarify.

MR. LATTIMER: Uh-huh. Go ahead. I told you if you don't understand my question try to clarify it, so go ahead and ask what you need to ask.

THE WITNESS: You're saying that Lieutenant Netter believed that –

BY MR. LATTIMER:

Q No, no, no, no. I'm asking you is this what you argued to Lieutenant Netter about these people being arrested is that just because Peaches gave them permission to be there, they should still be arrested [38] for unlawful entry, because Peaches herself did not have authority to give them permission?

A It was my belief that no one had permission to be inside that location, Peaches or anyone else, that everyone who was inside that location that were arrested was a lawful arrest.

Q Okay. And so what I'm trying to understand is why did you reach that conclusion when you knew that Peaches had given them permission to be there?

A Because Peaches didn't have permission to be there.

Q Okay. That's what I was asking. That's what I was trying to clarify. I think you just did. Is because Peaches herself did not have the authority to give anybody permission.

A And those people that were there did not have authority to be there.

Q Okay. Because they would have had the authority if Peaches had the right to give them permission, right?

A If Peaches had lawful right to the place and she wanted to throw her own party, then that's her [39] business. But Peaches did not have the right, nor did the people that were occupying that location have the right to be inside that location.

Q And it didn't matter whether or not they believed, based upon what Peaches told them, that they had the right to be there.

A Peaches nor the other individuals occupying that location did not have the right to be there.

Q All right. And that's what you told Lieutenant Netter?

A I advised Lieutenant Netter that Peaches, along with the other individuals inside that house, did not have permission nor the right to be there.

Q All right. And Lieutenant Netter disagreed with you.

A Yes, sir.

Q All right. And so therefore he decided to release everybody?

A Yes.

Q All right. So let me understand how that was going to work. Was he releasing everything on bond –

A No.

[40] Q – or was he just dropping the charge?

A When you – detention journal is that they're dropping the charges, mean that you're free to go.

Q Now, before that, because you told me that detention journal came later, when they were first going up, before there was a decision to charge them with disorderly conduct, how was that release going take place? What I'm asking is, was he releasing them on bond or was he just dropping the charges?

A When Lieutenant Netter decided to detention-journal them, Lieutenant Netter at that point was

dropping the charges against them, which means that it would show up that they had no record of being arrested for that particular day or for that offense.

Q All right. So how did the disorderly come about?

A I have no idea.

Q Well, I thought you said that you all got a call from the Attorney General's Office.

A Right.

Q Okay. Who had contacted – how did the Attorney General get involved in this?

[41] A Lieutenant Netter called Commander Contee and Inspector Anderson. And between those three, they called the Attorney General's Office, and between those four, they had a conversation of what they were going to do and how they was going to do it.

Q Okay. So as I understand it, the people were about to be released. Then a call comes in from the Attorney General's Office that says, "No, charge them with disorderly conduct," right?

A From what I was told, yes.

Q Okay. And then that's how the charge of disorderly conduct came about and they were allowed to post and forfeit, right?

A Yes, sir.

Q Now, did you have any conversation with anybody from the Attorney General's Office?

A No, sir.

Q Did you see anything that evening that substantiated the charge of disorderly conduct?

A No, sir.

Q Did you hear from any of the officers on the scene of anything occurring that justified the charge [42] of disorderly conduct?

A No, sir.

Q Did you have a conversation with anybody indicating that there was no basis for a charge of disorderly conduct?

A Elaborate on that a little bit.

Q What I'm asking you is, when you became aware that these people were going to be charged with disorderly conduct, did you have a conversation with anybody and say, "There's no basis for disorderly conduct"?

A Lieutenant Netter.

Q. Tell me how that happened.

A He advised me of what they was going to charge the individuals with.

Q And that was disorderly conduct?

A That was disorderly conduct.

Q Okay.

A And I advised him that that wasn't an appropriate charge.

Q Why?

A Because one, you can't be disorderly inside of [43] a house.

Q Okay.

A And in the disorderly statute for loud and boisterous, a crowd has to form, and/or people in a particular area that was quiet are waking up, which may be lights turning on and people coming out to see

what the commotion is all about. At this particular location that didn't fit that particular statute.

Q Okay. And you brought all of this to Lieutenant Netter's attention?

A Yes, sir.

Q And what or how did Lieutenant Netter respond to that?

A He's the watch commander.

Q That's what he said?

A "I'm the watch commander.".

Q And what, if anything, did you do?

A I walked out.

Q In your experience is it common that a watch commander will level charges that he knows has no legal basis?

MR. JACKSON: Objection; form of the question.

[44] Sergeant, you can still answer.

THE WITNESS: The watch commander has the authority that if he see a charge does not fit a crime to his or her opinion, that they can change that charge to whatever charge the believe will fit that particular crime.

BY MR. LATTIMER:

Q Okay. But what I'm asking is – you can't have disorderly conduct in a house, and you brought that to his attention. And so what I'm asking is, that was a charge that had no legal basis. And therefore, is it common for watch commanders to level charges in certain circumstances that they have no legal basis?

MR. JACKSON: Objection as to the form of the question.

You can answer.

THE WITNESS: It took the watch commander, the inspector, the district commander, and the representative from the Attorney General's Office to come up with that decision.

How they did it, I don't know. I wasn't involved or privy to the conversation or to the meeting

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[1] UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 09-571 (rmc)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Deposition of OFFICER EDWIN ESPINOSA
Washington, D.C.
Tuesday, April 6, 2010
11:38 A.M.

Job No.: 1-176947
Pages: 1 - 23
Reported by: Denice Z. Lombard, CSR

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* * *

[11] Q So is that what you were told, to stand by the door?

A Pretty much. I wasn't told that, but I wasn't going to get myself into anything I'm not sure of, so that was my role.

Well – okay. So did you observe any of the people who you say were on the living room floor engaged in any illegal activity?

A Obviously, besides just what I saw with the money and maybe open beer cans, that was it. That was all I saw.

Q Okay. But those aren't crimes are they?

A No, sir, no, they're not crimes.

Q So what I'm trying to understand is, when you walked in the door, did you see anybody engaged in any illegal conduct?

A No. Everybody was just hanging out inside, so no, anything illegal.

Q All right. So what happened next? After you stood by the door, what happened after that?

A I believe they asked if there was an owner to the apartment or to that residence, and that wasn't [12] answered. So I believe Officer Phifier and Jarboe tried determining within the listed location if anyone knew of or knew who would be the owner of the residence. And they came up with no answer. So, I mean, no one established residency there, so . . .

Q Okay. And then what?

A Say maybe a little while after, I believe they all got locked up for unlawful entry, sir.

Q Okay. Now who made the decision to arrest them for unlawful entry?

A I'm actually at the time not sure. I know it was definitely a boss, but I'm not sure who exactly made that determination.

Q Did you make the determination?

A Oh, no, sir. No, sir. No say in anything.

Q Now, you were the officer who signed some of the 163's; is that right?

A I believe I signed three of them, sir.

Q And why did you do that?

A Told to by my training officer, sir. Or assigned by my training officer.

Q Now, you didn't have – you had not seen

* * *

[21] did so because –

A I was instructed.

Q – you were told to do so.

A Yes, sir.

Q. You didn't conduct any investigation on your own, right?

A No, sir.

Q And as I recollect from your interrogatory answers, you didn't obtain any information –

A No, sir.

Q Let me finish the question – you didn't obtain any information from any other officers prior to signing the 163; is that correct?

A No, I believe not, sir.

Q Okay. Now, do you know why the charge was changed to disorderly conduct?

A Sir, I didn't even know it was changed until I believe the next day, so . . .

Q How did you find out the next day?

A I guess just maybe through other officers. I really can't recall how, but it might have been through other officers. Because I didn't make that decision, [22] so . . .

Q Now, while you were at the location, 115 Anacostia –

A Yes, sir.

Q – did you see anybody engaging in any conduct that you would find supports a charge of disorderly conduct?

A Not right off the top of my head, no, sir.

Q And I know I asked you about other people taking photographs. Did you take any photographs?

A No, sir. I didn't take anything.

MR. LATTIMER: All right. No further questions. Thank you, sir.

(Signature having been waived, the deposition of OFFICER EDWIN ESPINOSA was concluded at 11:57 a.m.)

* * *

[1] UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 09-571 (rmc)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Deposition of OFFICER ANTHONY CAMPANALE
Washington, D.C.
Tuesday, April 6, 2010
1:09 P.M.

Job No.: 1-176947
Pages: 1-45
Reported by: Denice Z. Lombard, CSR

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* * *

[17] Q. How about that one?

A Don't recall.

Q Well, where would the light come from?

A My flash.

Q Your flash could do that?

A Yeah. It's a pretty powerful camera.

Q Okay. Now, that looks to be a thermostat to me. Was the heat on?

A Don't recall. It wasn't that cold out. We had long sleeves on. I wouldn't know if there was heat on or not.

Q And so you couldn't tell if the light was on there?

A No.

Q Okay. And what about this photograph where it shows the outside too?

A Doesn't appear to be any lights on in the outside.

Q Does there appear to be lights on in the inside?

A No.

Q No? So what you're saying is that this [18] photograph that shows the officers on the outside –

A Yes.

Q – this photograph was taken with a flash?

A The camera had a flash on, yes.

Q I didn't ask you that. I'm asking it was taken with the flash.

A Yes.

Q And it was dark in here and dark outside?

MR. JACKSON: Objection.

THE WITNESS: Yes.

BY MR. LATTIMER:

Q And there were no lights in the house; is that right?

A I didn't say that. I just said I don't recall.

Q So when the back door was open, did you have your flashlight on at that point?

A Yes.

Q So when you went in the house you had your flashlight on?

A Yes.

Q Did you ever turn it off?

[19] A Don't recall.

Q Why did you take pictures anyway?

A Document the scene.

Q What were you documenting?

A That's what we do – for individuals that get arrested, we documentate the scene.

Q What were you documenting is what I'm trying to understand.

A The probable cause for individuals not supposed to be there, documenting individuals – where they were at, placed in the house, things of that nature.

Q What is that probable cause of? This is a photograph that shows no faces and a woman's body with a garter belt. What is that probable cause of?

A That there was a strip club or some type of strip party going on.

Q And what is that probable cause of?

A Well, if it's unlawful to be there, then it's unlawful to have that.

Q Okay. But that has nothing to do with whether they're there legally or not does it?

[20] A Yes.

Q It does?

A Yes.

Q How does –

A It just documentates the scene of how things were that night, that's all, so there's a clear and accurate representation of how things were.

Q Okay. And I'm trying to understand what was the point?

A The point was that the individuals weren't supposed to be inside the residence.

Q Okay. And what was the point of taking this particular photograph?

A To show that there were strippers there being paid money to dance and other activities.

Q Is that illegal?

A To dance?

Q Yeah.

A Unlawfully inside of a house, anybody's unlawful to be there, yes.

Q Okay. What I'm asking you is, aside from whether or not you're there legally, if you're there

* * *

[33] A I believe she was naked when she was upstairs.

Q So who allowed her to put on clothes?

A Not sure. I didn't go upstairs.

Q So who told you that?

A I don't recall.

Q You didn't see it, right?

A That is correct.

Q So you don't know who told you.

A That's correct.

Q So you assume.

A No, I was told that.

Q You were told that.

Why wasn't she arrested for that?

A I don't know.

Q And so who was supposedly buying the sex?

A I don't know.

Q Who were you told was supposedly buying the sex?

A There were males upstairs. They didn't point them out to me.

Q So the female was pointed out but the males weren't.

[34] A Well, there was only one other female that came from upstairs. That was her (indicating). All the other females were downstairs.

Q Really.

A Yes.

Q Okay. Were all of the females dressed like strippers except for the one that had on the –

A Whatever the picture shows.

Q Let me finish – except for the one that had on the scrubs and the one that you say was selling sex?

A However the pictures were taken is how they were dressed that night.

Q Okay. All right.

So did you answer that? Did you arrest anybody?

A Yes.

Q Who?

A I don't recall.

Q You don't recall?

A I don't recall their names right now.

Q What did you arrest them for?

A Unlawful entry.

[35] Q And what was your basis for arresting somebody for unlawful entry?

A That they did not have permission to be inside the residence.

Q And how did you make that determination?

A Through investigation.

Q Okay. Tell me what you did.

A I was informed by Officer Parker who spoke to Peaches who allegedly had gotten permission from the owner, but could not identify the owner, nor could provide a name, nor could return to the scene. That information was relayed to me and also Sergeant Suber.

Through that investigation we believed we had probable cause to place the individuals under arrest for unlawful entry. Nobody could determine who was supposed to be inside the residence.

Q And what is your understanding of the charge – of the crime of unlawful entry? What entry, what do you believe has to be demonstrated in order for you to have probable cause?

A That you're present inside of a location that you do not have permission to be in.

Q And the person that you arrested, was it a male or a female?

[36] A I don't recall.

Q Did you have any conversation with that person?

A I'm sure at one point I did.

Q Now, you were asked about statements in your interrogatories, and you do not indicate that you took a statement from anybody that you recall; is that right?

A As far as a written statement?

Q Any statement: written, oral, whatever. You indicate that, "I don't recall which individuals I questioned."

A That's correct.

Q So the person you arrested, when did you talk to them?

A Like stated before in the beginning of the deposition, that went around the room, asked each individual –

Q I'm not asking you about that. I'm asking you about the person you arrested.

[37] A I asked everybody inside the room once everybody was inside the living room.

Q Okay. Now, that's all good, and that's nice. But my question is about the person you arrested.

A Is the person was present inside the living room, then I had talked to them, yes.

Q In your interrogatories you say you don't know who detained, handcuffed or arrested any of the plaintiffs on the night of the incident.

Does that indicate that you didn't arrest any of the plaintiffs in this case?

A No, it doesn't indicate that.

Q So which one of them did you arrest?

A Like I stated before, I don't recall their specific names at this time.

MR. LATTIMER: All right. Let's see if we can figure it out.

David, I don't have any arrest reports from this officer, although he says he arrested somebody. It's not in 1A through 1F or 2A through 2D.

MR. JACKSON: Well, you have everything that I have.

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[40] are people in that house who are not in these pictures.

MR. JACKSON: I understand.

MR. LATTIMER: So if he took pictures of everybody, that means there are other pictures that we don't have. That's what I'm saying. He's not saying that he – he says he doesn't remember who the people are, and he doesn't know the names with the faces.

I'm not saying that. What he said though was that everybody in that house was photographed. And you

and I both know that everybody in that house is not in these pictures.

MR. JACKSON: Very simple.

Officer Campanale, other than the pictures that have been shown to you, do you recall taking any other additional pictures.

THE WITNESS: No, I do not.

BY MR. LATTIMER:

Q What did you do with your arrest reports?

A We turned them in.

Q To who?

A To the – well actually, they were turned in by officer – by MPO Phifier.

[41] Q So you gave your arrest reports to Phifier?

A That's correct.

Q Why?

A Because we were at check-off point, and they weren't letting us stay past our tour.

Q Now, why were the charges changed from unlawful entry to disorderly conduct?

A It's my understanding that Lieutenant Netter, who became the morning day watch, watch commander, ordered the charges be changed.

Q Why?

A I have no idea.

Q Did you ever ask him?

A No. That was done after we left.

Q All right. Now, with respect to any of the people in that house, did you see anybody engage in disorderly conduct?

A I didn't charge anybody with disorderly conduct.

Q I didn't ask you that. Did you see anybody engaged in disorderly conduct?

A Disorderly conduct can't be charged inside of [42] a residence. So no, I didn't see anybody engaged in disorderly conduct that would be charged in the District of Columbia.

Q Okay. So if disorderly conduct can't be charged inside of a residence, and all of these people were inside of a residence, how do you explain a charge of disorderly conduct being leveled against them?

A Because the day watch, watch commander, Lieutenant Netter, ordered that the charges be changed from unlawful entry to disorderly conduct.

Q And as far as you know, is there any basis to substantiate a charge of disorderly conduct?

A Not that I'm aware of.

Q Now, does your digital camera have a disk or does it use a – what kind of digital camera did you have?

A As far as what brand or –

Q Did it use a card or did it use a –

A Memory card?

Q Yeah.

A Yes.

Q Where is that memory card?

[43] A Probably still with the camera I imagine.

(Sergeant Suber enters.)

BY MR. LATTIMER:

Q How did you get the photographs off the memory card?

A I put them into an e-mail and submitted them.

Q You took the memory card and put it in a computer?

A Yes.

Q And then you emailed them.

A That's correct, and printed them out.

Q Did anybody else ever see what was on that memory card?

A No.

Q And where is that memory card now?

A I said I believe it's still with the camera.

Q Do you still have the camera?

A Yes.

Q Do you still use the camera?

A Yes.

MR. LATTIMER: No further questions. Thank you.

[44] MR. JACKSON: Would you want to waive the reading and signing or do you want to –

THE WITNESS: Yes, waive.

MR. JACKSON: He'll waive.

(Signature having been waived, the deposition of OFFICER ANTHONY CAMPANALE was concluded at 1:48 p.m.)

* * *

[1] UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 09-571 (rmc)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Deposition of OFFICER FARAZ KHAN
Washington, D.C.
Tuesday, April 6, 2010
11:13 A.M.

Job No.: 1-176947
Pages: 1-19
Reported by: Denice Z. Lombard, CSR

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[12] Q Did you observe anyone engaged in any illegal conduct?

A No.

Q Did you find any drugs?

A I did not find any drugs, no.

Q All right. So then what happened? What happened next?

A Then we went to the station and started processing.

Q Started processing who?

A The individuals.

Q For what?

A For unlawful entry.

Q Okay. And why were you – were you involved in that?

A Yes. My name is on about six or seven 163's.

Q Why is that?

A Because when you're in training, your FTO, training officer, gives you the arrests. So Officer Jarboe gave me like, you know, you're putting your name on such and such people's arrests.

Q Okay. So what did he tell you you were [13] putting your name on the arrest for?

A For unlawful entry.

Q Okay. And what did he tell you constituted the unlawful entry?

A I don't know. Because MPO Phifier did the narrative for the unlawful entry.

Q So you were just signing your name, and you didn't know –

A I didn't have –

Q Let me finish the question.

You were just signing your name, and you didn't know what the basis of the arrest was that you were signing your name to?

A I mean, later on when I was there I found out that, you know, these people didn't have right to be in that house.

Q Okay. Well, what I'm asking you is, at the time that you were signing your name to these documents, am I understanding you correctly that you didn't know – you had no indication as to what the basis of the charge was?

A Yes, that's correct.

* * *

[15] A Can you repeat your question?

Q Sure. What I'm asking – well, let me ask it this way.

A Sure.

Q Prior to you signing your name on the 163 – and maybe I should start by asking you to explain what a 163 is.

A 163 is just the defendant's name, address, Social Security number, their description, along with the complainant's name and the arresting officer and the charge.

Q All right. So it's the charging document, correct?

A Yes.

Q All right. And so prior to signing the 163, what had Officer Jarboe told you regarding the charges that were being leveled against these individuals?

A Officer Jarboe told me that, you know, these individuals did not have permission, right to be in that house and they're going to be charged with unlawful entry.

Q He told you that before you signed.

[16] A Yes, before I signed.

Q Okay. And so what was the basis – what was the reason he told you that they didn't have permission to be in the house?

A I don't remember.

Q All right. Now, you know why those charges were changed?

A I don't know.

Q Did you see any of the individuals that you charged with unlawful entry engaging in disorderly conduct?

A No.

Q Did you see any actions on the part of any of the individuals that you charged with unlawful injury – I'm sorry, unlawful entry, did you see any of those people engaged in anything that would substantiate a charge of disorderly conduct?

A No.

Q Now, as I understand it, you didn't handcuff or transport any of the individuals from the house; is that right?

A Yes.

[17] Q Did you even know the people that you were charging? Did you know who the people that you were charging with unlawful injury – I'm sorry, I keep saying "injury"; it should be entry, unlawful entry. Did you know who they were?

A No.

Q And but for Officer Jarboe telling you that these people had no legal right to be there, did you have any other information that would substantiate a charge of unlawful entry?

A No.

Q Did you observe anything that led you to believe that anyone did not have the right to be there?

A No.

Q Did anyone attempt to flee when you entered the house?

A No.

Q Now, why were pictures of these people taken?

MR. JACKSON: Objection; foundation.

You can answer.

THE WITNESS: I don't know.

BY MR. LATTIMER:

* * *

[1] UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 09-571 (rmc)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Deposition of OFFICER JASON NEWMAN
Washington, D.C.
Tuesday, April 6, 2010
12:48 P.M.

Job No.: 1-176947
Pages: 1-28
Reported by Denice Z. Lombard, CSR

* * *

[12] Q Which one of those are unlawful?

A I didn't say it was unlawful. I'm just saying that's what I observed.

Q Okay. My question is did you observe anybody engaged in any unlawful conduct.

A No.

Q So you come in a house, you see no unlawful conduct, and you all order everybody downstairs.

A Yeah, so we can talk to everybody, yes.

Q So you all can talk to them.

A Um-hm.

Q About them not being engaged in unlawful conduct, correct?

A At this point we didn't know what we had

Q Okay. And then you go outside.

A Um-hm, out front.

Q For no obvious reason, right?

MR. JACKSON: Objection.

You can answer.

THE WITNESS: I was outside because there was a number of officers already inside. There was really no point for me to stay in there.

* * *

[15] showed up, and each individual was placed under arrest and taken to the 6D station.

Q Were they handcuffed?

A Yet, they wore.

Q Now, were they ever handcuffed and then the handcuffs were removed, and then handcuffed again?

A I don't remember that,

Q Were they metal cuffs or flexi cuffs or what?

A I think it was a little bit of both: flexi, metal.

Q Why was there a distinction?

A Honestly I really don't remember if there were metal, because I think metal cuffs and flex cuffs were used, because usually when you arrest that many people, flexi cuffs come out.

Q Do you know how many people were arrested?

A No, sir.

Q How many did you arrest?

A I had one person.

Q And who was that?

A I believe his name was Louis Echelberg [phonetic], something like that.

[16] Q Ethelbert Louis?

A Yes.

Q Okay. So why did you arrest him?

A He was an individual that I basically attached my name to with an arrest. There were a lot of people being arrested. So at this point you just, "This is your guy you're arresting; Officer, this is your guy you're arresting."

Q Okay. What does that mean?

A Basically what I said. You just – you arrest this person, next person is this officer's. Because there's so many people, one officer can't take all how many it was, so . . .

Q Now, I was of the impression that police officers needed probable cause to make an arrest.

A Well, at this point we believed we did.

Q Okay. So you had probable cause to arrest Mr. Ethelbert Louis?

A At this point we thought we did, yes.

Q Okay. So tell me what was your probable cause.

A We had probable cause to believe that they

* * *

[18] on that information and the investigation and then the sergeant's determination, we believed we had probable cause to arrest everyone for unlawful entry.

Q I'm not talking about we right now, and I'm not talking about everybody else. Right now I'm talking about you –

A Okay.

Q – and I'm talking about Mr. Ethelbert Louis.

A Okay.

Q Now, who talked to Mr. Ethelbert Louis?

A I don't remember if anyone talked to him specifically.

Q Okay. So if nobody talked to Mr. Louis – and you didn't talk to him, right?

A Not to the end, correct.

Q You didn't question him, right?

A He was questioned with the group.

Q You didn't question him, right?

A I did not.

Q All right. So if you had no information about whether or not Mr. Louis had the right to be there, what was your probable cause?

* * *

[20] Q And so what I'm trying to understand is what is your probable cause for having made that arrest?

A Based on the facts and circumstances where Mr. Louis was at that evening, I believed I did have probable cause to arrest him for unlawful entry.

Q But that doesn't answer my question. I understand you believe it. But what I'm asking you is what is it. When you're an officer and you know that facts are what you use to determine probable cause, correct?

A Correct.

Q All right. What are the facts that led you to believe that you had probable cause?

A The facts that led me to believe that was that no one knew who the owner was.

Q Not no one. I'm talking about Mr. Louis right now. Forget all the other people.

A All right. The individual did not know who the owner was.

Q Okay.

A He did not know where the owner was.

Q All right.

* * *

[24] was later changed to disorderly conduct?

A I have no idea.

Q Did you ask?

A No.

Q Did you ever see Mr. Ethelbert Louis engage in any conduct that would be considered disorderly conduct?

A No.

Q Did you ever see anybody engage in any conduct that you would consider disorderly conduct?

A No.

Q Did you see anything about any of the individuals that night that would justify a charge of disorderly conduct?

A Inside the house, other than what I saw, I guess not, no.

Q Did you ever tell anybody that you saw any individual engaged in conduct that night that could support a charge of disorderly conduct?

A No, sir.

Q Do you know who made a decision to charge these individuals, and specifically Mr. Louis, with

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[1] UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 09-571 (rmc)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Deposition of OFFICER ANDRE C. PARKER
Washington, D.C.
Tuesday, April 6, 2010
10:39 A.M.

Job No.: 1-176947
Pages: 1-38
Reported by: Denice Z. Lombard, CSR

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* * *

[9] someone came and opened the back door, and I came inside.

Q You say "someone." Was it an officer?

A It was an officer that made entry in the front, but I don't know which officer that knocked on the door in the front of the house.

Q So when you say "made entry," this was a forced entry?

A No, it wasn't forced entry. It was knocked, someone opened the door I assume, and – but it wasn't no forced entry.

Q So why did you go to the back?

A I went to the back because anytime we're investigating I guess the situation like that, it's for security purposes of if someone may run out the back. If there's something illegal going inside, someone may throw something out the window. So it's better to just surround the house and cover all exit points so we can stop and identify the parties inside.

MR. JACKSON: Could we go off the record? Can I have a word with Officer Parker?

(To Officer Khan.) And also you. Take two [10] seconds.

(Off the record.)

BY MR. LATTIMER:

Q So why did – when you went to that house, what was the basis of your presence? I mean, what information had you been provided prior to you getting there?

A Me personally I wasn't provided. He asked for assistance at the location, and the main issue was that there was some unlawful people inside of this home.

Q Had you been provided that information, that there was some unlawful people inside the home?

A There were – when I got there, I hadn't spoke to Jarboe or – Officer Jarboe or MPO Phifier directly. They just said, "Go around on back, you know, cover the door." So I went around and covered the door.

Buy during – once we got there inside, that was the determination.

Q So when you got there, you were told to go to the back. That's why you went to the back.

A Yeah.

Q You didn't know what was going on.

[11] A Well, I mean, there was a call. The call that came out was for a loud party at the location. And there had been like previous calls to that house that there were some I mean, I've heard officers have talked about that there was some a lot of partying going on at this particular location over course of time.

Q That's not illegal is it, partying at a house?

A No, not having parties, no.

Q Oh, okay. So that's what I'm trying to understand. The fact that you had received a call about a loud party, why would that suggest to you to go around to the back of the house?

A Well, the information was that the house was provided to – from what I understand from MPO Phifier was the house was due to be vacant. It was a vacant home. And no one had permission to be there.

Q When did Phifier tell you this?

A It was – he didn't tell me directly, but it was information that was brought to my attention once we got inside that, you know . . .

Q All right. Well, tight now I'm trying to [12] focus on – I assume you pulled up in a scout, right?

A Um-hm.

Q Is that yes?

A Yes,

Q Okay. And what I'm trying to understand from you right now is, when you pulled up in the scout, what did you know?

A I knew that there was people inside this home. They didn't have the right to be in that home.

Q All right. Tell me how you knew that at the time you pulled up.

A From the officers that were on the scene.

Q Okay. So they told you that these people didn't have a right to be there.

A Right.

Q Okay. Who told you that?

A I can't say it was – it may have been Jarboe, may have been Officer Jarboe had told me.

Q So you believe that Officer Jarboe told you that the people didn't have a right to be there.

A Right.

Q And did he tell you why he believed that?

[13] A We didn't go into detail at that moment, so we you know, later on when I got inside, that's when . . .

Q So you accepted what he said

A Yes.

Q And that's why you went around to cover the back.

A Yes.

Q To make sure that no one left or that no contraband was thrown into the yard.

A Right.

Q All right. Were you alone?

A I was partnered up with Officer Manaknoff.

Q Officer who?

A Officer Manakonff.

Q Do you know how to spell that?

A M-a-n-a-k-n-o-f-f.

Q All right. Anybody else?

A Not with me, no. It was just me and him.

Q All right. So you went around to the back.

A Yes.

Q And as I understand it, at some point shortly [14] after that someone – an officer came to the back door and let you in.

A Yes.

Q All right. And then you went in the house.

A Yes.

Q All right. And then what did you do at that point?

A I came in. There were people sitting downstairs. We just made everyone just keep their hands visible. I observed different individuals holding cups with liquid inside at that time.

Went upstairs to check the upstairs. I saw a bedroom that had some candles list, mattress. There were some females in there that had provocative clothing on with money in like I guess their garter belt on the leg.

I smelled marijuana in the air. There were some beer cans. So once I checked everything out, had everyone come downstairs into the living room area.

Q Did you find any marijuana?

A No.

Q But you smelled marijuana.

[15] A Yeah, like it was burned marijuana, correct.

Q Did you all search the house?

A Well, we looked around for anything that was openly visible, yes.

Q You didn't conduct a search?

A I mean, we checked the closets for like people and more individuals, because there was no furniture in the house. But far as like, you know, ripping floor boards or doing anything excessive, we didn't do that type of search, no.

Q So you didn't search for any drugs.

A I mean, I looked around for – I looked around for narcotics, yes, I did.

Q And you didn't find any.

A No.

Q All right. So after you came in, saw the people, went upstairs, then what did you do?

A I went back downstairs with the individuals. And I was speaking with the young lady – I don't know her name, hut she was dressed with like a work outfit on, like scrubs or something.

And she told me that her friend Peaches had [16] allowed her – Peaches was throwing this party. And Peaches – I said, "Well, where is Peaches?"

She said, "She's not here."

I said, "Well, you need to get her on the phone, because we need her to come back here so we can clear up what's – you know, if she can bring a lease or something was going on for this house."

Q Why is that?

A Why is what?

Q Why is it that someone needs to show you a lease?

A To show some type of ownership of the property.

Q Okay. So let me understand. Now, you didn't know who owned the property.

A No.

Q And so you go into a house, and once you get inside the house, you all decided that somebody needed to tell you who owned the house.

A Yeah, to find out who the owner is, yes.

Q Why?

A Because there's – I mean, there's a whole [17] bunch of people in the house. We smell narcotics, okay? That's more than enough reason to find out why these individuals – what's going on in here and the activities that was going on.

Q Okay. But what activities had you observed that were illegal?

A Well, I didn't observe anything that – in action that was illegal, but there was – from the information that was provided, that this house was being used unlawfully.

Q Who gave you that information?

A Well, that's what came from the call taker, whoever placed the call, and it was passed on to the officers.

Q Okay. So tell me what is it that you learned that was going on that was illegal in this house.

A That these individuals that were in the house did not have a lawful right to be in there by the owner of the property.

Q Okay. And who had spoken to the owner and obtained that information?

A I spoke to the owner, the grandson's – the [18] decedent's grandson who said he owned the property and that he was going to work out a – he was in the process of working out some type of lease agreement with this Peaches who would not return to the house that night. And he said he was trying to work something out with her, but they never came to agreement, and they did not have permission to be in the house.

Q And when did you speak to him?

A That night on the cell phone.

Q What was his name?

A I believe his name was Hughes.

Q And you spoke with – was this a man or a woman?

A It was a man.

Q – a Mr. Hughes, and Mr. Hughes told you that nobody had permission to be in the house.

A Right.

Q And then what?

A At that point I passed that information on to Sergeant Suber, and Detective Sepulveda was there, and they – he eventually made the decision to have [19] everyone placed under arrest.

Q Okay. So you spoke with somebody named Peaches, right?

A Yep.

Q Who told you she had a right to be there.

A Right.

Q And you spoke with somebody named Hughes, right?

A Right.

Q Who told you they didn't have a right to be there.

A Right.

Q And so then you all decided to arrest everybody in the house.

A I didn't decide. Sergeant Suber decided to make that –

Q Somebody decided to arrest everybody in the house.

A Yes.

Q Because one person said they didn't have the right, and one person said they did have the right.

A That's correct.

[20] Q And you had no other information at all; is that right?

A From my understanding, that's what I was told, yes.

Q And you had no – had not observed anybody in that house engaged in any illegal conduct at all, correct?

A Correct.

Q All right. Now, who, if anyone, did you arrest?

A I did not place anyone under arrest. I didn't fill out any paperwork. I don't have one of the arrests.

Q So you filled out no paperwork.

A To my knowledge, no.

Q So you didn't provide any of the information that you obtained from either Peaches or this Mr. Hughes in any police report; is that right?

A I provided to the officers that took arrest.

Q My question is –

A I didn't, no.

Q You didn't put in a 163, correct?

* * *

[31] elements of offenses how often?

A We go through professional-development training, but, I mean, once you leave the academy, I mean, it's kind of up to you to stay on top of the new laws and things that change or any of the offenses changes.

Q Right. And do you do that?

A I try to often, yeah.

Q So would it be fair to say that as you sit here today, and back when you were at that house in March of 2008, that you were familiar with the law regarding unlawful entry?

A Yes.

Q And you made a determination based upon what occurred and the information that was – you were aware of, that the offense of unlawful entry was a – you had probable cause – there was probable cause for that offense?

A Well, I didn't make the determination, but the individuals were in the home, and it was determined, based on the information from the owner of the property, they didn't have permission to be on their [32] property.

And the fact that Peaches wouldn't return – Peaches never came back to the house. She was reluctant to come back. So therefore that's what constitutes an unlawful entry.

But like I said, I didn't make that decision.

Q So why was nobody – why was all the charges changed once they got to the station?

MR. JACKSON: Objection; foundation.

THE WITNESS: I have no idea. That was way done after I left for the night by Lieutenant – the day work watch commander, Lieutenant Netter.

BY MR. LATTIMER:

Q So you know that the charges were changed, right?

A I found out the next – later on in the day when I was on my way to work.

Q And was changed to disorderly conduct, right?

A Yes.

Q Did you see anybody engaged in disorderly conduct?

A You can't be disorderly in the house. I

* * *

[34] for loud noise from the home, so . . .

Q So my question is, based upon what you observed while on the scene – and I can only ask you about you – did you see anything that would justify the charge of disorderly conduct?

A No.

MR. LATTIMER: I have no further questions. Thank you, sir.

MR. JACKSON: Let me just, for the record, remember we talked about the reading and signing of the deposition, or you can just waive that?

In other words, what you will be doing is making sure that everything that you said is accurate; not in terms of the substance of what you said, but just in terms of spelling and corrections and things like that.

Or you can just waive that process and then you're just going to rely on the court reporter's accuracy.

THE WITNESS: I'll sign it. I mean – I'll just take your word for it, I mean –

MR. JACKSON: What do you mean? You're going

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Filed 04/01/11]

No. 09-cv-00501 (RLW)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

DISTRICT DEFENDANTS RESPONSES TO PLAINTIFFS' STATEMENT OF MATERIAL FACTS NOT IN DISPUTE

Many of the assertions in Plaintiffs' Statement of Material Facts are not facts at all, but are legal contentions that go to the ultimate issues in the above-captioned action.

1. Plaintiffs' Statement of Material Facts ("Pltfs' Statement") at 1. Plaintiffs contend that "[n]o basis exists for the charge of disorderly conduct. Espinosa dep at 11, 22; Campanale dep at 41-42; Khan dep at 12, 16; Newman dep at 12, 24; Parker dep at 17, 20, 32, 34; Suber dep at 28-30, 39-43." Defendants admit that the deposed MPD Officers made the statement; however, none of the Defendant MPD Officers charged or arrested Plaintiffs for disorderly conduct. It was the

D.C Office of the Attorney General that used its discretion to charge Plaintiffs with disorderly conduct.[1] This statement is not material to Count I, Fourth Amendment claim, or Count II for false arrest since the defendant MPD Officers onsite agree that disorderly conduct charges were inappropriate. See arrest report attached to District Defendants' Motion for Summary Judgment at Exhibit "A." Lastly, to the extent that District Defendants had no "lawful basis" for charging Plaintiffs for disorderly conduct, this is not a statement of facts, but argument.

2. Pltfs' Statement at 2. Plaintiffs contend that "[n]o one ever determined who was the owner of the property in question. Suber dep at 17-19." Actually it was established that none of the Plaintiffs were determined to be owners of the property in question because each of them admitted that they were social guests. In any event, this statement is not material. The issue of whether District Defendants are liable under the Fourth Amendment and common law false arrest is whether MPD Officers reasonably believed that Plaintiffs were not the owners and did not have a possessory interest in the property. All Plaintiffs admitted that they had no such possessory or ownership interest, and in fact, their arrest records show that each Plaintiff gave a residential address that was not the premises at which they were located. Additionally this Statement at 2 is false because MPD Officers asked Peaches, who allegedly invited Plaintiffs to the premises, how to contact the owner and she did. Upon contacting the owner, MPD Officers were told that no one was permitted on the premises and that Peaches

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[1] *Wynn v. United States*, 38 A.2d 665, 699 n.1 (D.C. 1978) (bringing of new or additional charges is considered ordinarily to be a matter of prosecutorial discretion.

(Tasty) did not yet have a leasehold interest. DOC 25-9 (Deposition of Officer Andre Parker 17:11-22).

3. Pltfs' Statement at 3. Plaintiffs' contend that "[i]t was determined at the police station by the watch commander, that the plaintiffs' arrest was unwarranted. Suber dep at 28, 29, 39-41." Defendants do not deny that the watch commander may have held or held an opinion about the applicability of a charge but there was not an agreement by Defendant MPD Officers onsite. DOC 25-6 (Deposition of Officer Anthony Campanale 41:6-22). District Defendants do not challenge Plaintiffs' contention that the opinions of different MPD Officers may exist. This statement supports District Defendants' assertion of qualified immunity on the constitutional claim because, as a matter of law "[i]f it would have been possible for officers of reasonable competence to have disagreed about whether the arrest was justified, the arrest is immunized.[2]

4. Pltfs' Statement at 4. Plaintiffs contention that "[n]o probable cause existed for the arrest of the plaintiffs on the charge of unlawful entry in any event. Suber dep at 17-19" is not a statement of facts, but arguments that go to the ultimate issue in this case. Additionally this is not a statement of facts, but argument.

5. Pltfs' Statement at 5. Plaintiffs contend that "[t]he plaintiffs had permission to be at that location from the person that they had reason to believe resided at that location. Hunt dep at 8-9; Chittams dep at 11-12." Evidence obtained by the MPD Officers at the scene showed that plaintiffs' did not have permission. DOC 25-4 (Deposition Sgt. Suber 19:4-7) ("We had the

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[2] *See Coons v. Casabella*, 284 F.3d 437, 440-41 (2d Cir. 2002); *Gibson v. Rich*, 44 F.3d 274, 277 (5th Cir. 1995).

detective, Detective Sepulveda come to the scene and he talke to [Peaches/tasty] on the phone. And then through his conversation she stated that she didn't have permission to be inside the location. In any event, Plaintiffs' state of mind is not material to the issues in this civil action.

6. Pltfs' Statement at 6. Plaintiffs contend that "[t]he District's supervisory personnel, which included a representative of the Office of the Attorney General, orchestrated the false arrest of the plaintiffs on the contrived charge of disorderly conduct. Suber dep at 29, 40-41." District Defendants admit only that the charge of unlawful entry was changed to disorderly conduct. While the Office of the Attorney General charged Plaintiffs with disorderly conduct, this contention is immaterial. The Attorney General's executive decisionmaking regarding prosecutorial charges is discretionary and generally not subject to review under the separation of powers doctrine.[3]

7. Pltfs' Statement at 7. Plaintiffs contend that "Sgt. Suber authorized the arrests of the plaintiffs for unlawful entry because he is of the opinion that if a person goes to a residence, "it's upon them, their responsibility, to find out if they can in fact be at that residence lawfully." Suber dep at 19." Defendants admit that the statement was made; however, many of the defendant MPD Officers had reason to believe that the Plaintiffs were unlawfully on the premises. DOC 25-6 (Deposition of Officer Anthony Campanale 35:17-22). This statement supports District Defendants'

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[3] See *Baker v. United States*, 291 A.2d 208, 215 (D.C. 2006) (prosecutorial discretion rarely subject to judicial review under the separations of powers doctrine.)

assertion of qualified immunity on the constitutional claim.[4]

8. Pltfs' Statement at 8. Plaintiffs contend that "Defendant Newman arrested plaintiff Ethelbert Louis for unlawful entry because no one knew who the owner was. Newman dep at 15, 20." District Defendants admit only that the arrest was because MPD Officers knew that Ethelbert Louis was not the owner and had no possessory interest in the property because he and the other Plaintiffs admitted that they were on site as social guests. DOC 25-5 (Deposition of Edwin Espinosa 11:21; 12:1-5; DOC 25-4 (Deposition of Sgt. Suber 18:1-22). The statement is false to the extent that Plaintiffs contend that "no one knew who the owner was because MPD Officers asked Peaches, who alleged invited Plaintiffs to the premises, how to contact the owner and she did. Upon contacting the owner and Peaches, MPD Officers were told that no one was permitted on the premises and that Peaches (Tasty) did not yet have a leasehold interest. DOC 25-4 (Deposition of Sgt. Suber 19:4-7).

9. Pltfs' Statement at 9. Plaintiff contends that "Defendant Khan's name appears on about 6 or 7 163's and at the time he signed the documents, he had no indication as to the basis of the charges. Khan dep at 12-13." District Defendants do not deny this contention, but deny its materiality to the claims. The contention is not material because under the collective or imputed knowledge doctrine, an arrest or search is permissible where the actual arresting or searching

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[4] *See Coons v. Casabella*, 284 F.3d 437, 440-41 (2d Cir. 2002); *Gibson v. Rich*, 44 F.3d 274, 27 (5th Cir. 1995) (as a matter of law "[i]f it would have been possible for officers of reasonable competence to have disagreed about whether the arrest was justified, the arrest is immunized.")

officer lacks the specific information to form the basis for probable cause or reasonable suspicion but sufficient information to justify a stop or search was known by other law enforcement officials initiating or involved with the investigation.[5]

10. Pltfs' Statement at 10. Plaintiffs contend that "Defendant Campanale arrested on (sic) person but he does not remember who it was but the arrest came about because the owner could not be identified. Campanale dep at 34-35." District Defendants admit only that MPD Officers knew that none of the Plaintiffs were the owner or had possessory interests in the property because Plaintiffs admitted that they were on site as social guests for a bachelor party.

11. Pltfs' Statement at 11. Plaintiffs contend that "Defendant Espinosa signed three 163's because he was told to do so. Espinosa dep at12." District Defendants do not deny this contention, but deny its materiality to the claims. The contention is not material because under the collective or imputed knowledge doctrine, an arrest or search is permissible where the actual arresting or searching officer lacks the specific information to form the basis for probable cause or reasonable suspicion but sufficient information to justify a stop or search was known by other law enforcement officials initiating or involved with the investigation.[6]

12. Pltfs' Statement at 12. Plaintiffs contend that "Defendant Espinosa did not obtain any information from any other officer before he signed the 163's."

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[5] See *United States v. Hensley*, 469 U.S. 221(1985), *United States v. Canieso*, 470 F.2d 1224, 1230 n.7 (2d Cir. 1972).

[6] See *United States v. Hensley*, 469 U.S. 221(1985), *United States v. Canieso*, 470 F.2d 1224, 1230 n.7 (2d Cir. 1972).

District Defendants do not deny this contention, but deny its materiality to the claims. The contention is not material because Federal courts have granted qualified immunity to police officers in cases where the officer was listed as the arresting officer, but there was little or no evidence that the officer had either made the arrest or otherwise violated the plaintiff's constitutional rights.[7]

Respectfully submitted,

IRVIN B. NATHAN
Acting Attorney General

GEORGE C. VALENTINE
Deputy Attorney General,
Civil Litigation Division

/s/ William B. Jaffe
William B. Jaffe [502399]
Chief, General Litigation III,
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/s/ Denise J. Baker
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Counsel for the Defendants

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[7] *See Fernandors v. District of Columbia*, 382 F. Stipp. 2d 63, 72-73 (D.D.C. 2005); *Bennett v. Schroeder*, 99 Fed. Appx. 707, 713-14 (6th Cir. filed May 27, 2004); *see also Montiel v. City of Los Angeles*, 2 F.3d 335, 343 (9th Cir. 1993).

METROPOLITAN POLICE DEPARTMENT
Washington, D. C.

ARREST/PROSECUTION REPORT
D. 163 Rev. 5/2002 G.O. 401.5

1. PERSON NOTIFIED OF NAME CHANGE – UNIT – DATE/TIME – NOIC NO. (ID ONLY)			2. ID NUMBER (ID ONLY) 609650
3. DEFENDANT'S TRUE NAME – LAST, FIRST, MIDDLE (ID ONLY)			4. CID NUMBER
UNIT ARREST NO. 06080385	6. DEFENDANT'S NAME – LAST, FIRST, MIDDLE (At time of arrest) [redacted]		7. DEA LAB NUMBER
Arresting Officer's Name: BONDS,COREY	9. TYPE OF RELEASE ☐ CITATION ☐ BOND ☐ COLLATERAL	10. NICKNAME / ALIAS: NONE	11. PHONE NUMBER: N/A
Unit: FC Badge #: 3961 Agency: MPD	12. COURT DATE: 3-15-08	13. ADDRESS (Include Room / Apt. No., City & State If Outside D.C.) [redacted]	14. TIME IN D.C.: N/A

☐ CHILD ABUSE ☐ GANG ☐ HATE SPECIAL INTELLIGENCE ☐ SENIOR CITIZEN ☐ DOMESTIC VIOLENCE

16. SEX	17. RACE	18. BIRTHDATE	19. SOCIAL SECURITY NUMBER
Male	Black	[redacted]	[redacted]

20. NEED INTERPRETER	21. HEIGHT	22. WEIGHT	23. HAIR	24. EYES	25. COMPLEX	26. PERMIT NO/ST	27. BIRTHPLACE (City & State)
☐ YES ☒ NO	5'9	188	BLK	BRO	Med	NONE	BOWIE ,MD

28. CO-DEFENDANTS: Number 4 (If more than 3, list on back)	29. IMPERSONATOR? ☐ M ☐ F ☒ NO	30. ETHNICITY	31. CAUTION
NAME, ADDRESS, ZIP CODE AND PHONE NUMBER: See. Narrative	32. SCARS/MARKS/TATTOOS: NONE	african american	none

33. HAT	34. JACKET	35. PANTS
NONE	NONE	BLUE

36. COAT	37. SHIRT	38. SKIRT/DRESS
NONE	WHT	NONE

39. WALES/NCIC CHECK

CHECK MADE BY (Name)	NCIC NUMBER	WARRANT ON FILE (If Yes, enter Warrant Numbers)
ABRON		Yes ☐ No ☒

LOCATION OF OFFENSE (Exact Address, include Room / Apt No.)	DATE OF OFFENSE	TIME OF OFFENSE
115 ANACOCOSTIA AVE NE	3-15-08	0130
LOCATION OF ARREST (Exact Address, include Room / Apt No.)	**DATE OF ARREST**	**TIME OF ARREST**
	3-15-08	0200HRS

ASSISTING OFFICER'S NAME, RANK, BADGE NO. & UNIT OR AGENCY	ASSISTING OFFICER'S NAME, RANK, BADGE NO. & UNIT OR AGENCY
BONDS,C. OFC. 3961. MPD	NEWMAN,J. OFC. 2174 MPD

43. DEFENDANT ADVISED OF RIGHTS

DATE	TIME	LOCATION	OFFICER'S NAME – ADVISING / COMPLETING PD FORM 47/47A	BADGE NO.	UNIT
		NOT ADVISED			

44. COMPLAINANTS / WITNESSES (If sworn member – Name, Rank, Badge No. and Unit) MORE ☐ See Back

	NAME – LAST, FIRST, M.I.	ADDRESS – STREET, CITY, STATE, ZIP CODE	BIRTHDATE	HOME PHONE NO.	WORK PHONE NO.
1	Foster, [redacted]	[redacted]	[redacted]	[redacted]	
2	Keck, [redacted]	[redacted]	[redacted]	[redacted]	

45. SPEC. OPS	46. TACTICS	47. PREMISES	48. SCHOOL ZONE / PUBLIC HOUSING
ONE	14 - Other tactic	6 - House	☐ ☐

CHARGES	NOI OR WARRANT NUMBER	CCN	MPD DISPOS.	COLLA/BOND RECEIPT NO
1. UNLAWFUL ENTRY		034-506	Lock up	676270
2. Disorderly Conduct		034 516		
3.			750	
4.				
5.				

50. PROPERTY RECOVERY / ITEMS OF EVIDENCE

PROPERTY BOOK/ PAGE NO	CSES NO
74/228	PRISONERS

51. INITALS – DATE – UNIT OF PERSON TAKING PRINT

52. M.O. WEAPONS, HANGOUTS, HABITS, INSTRUMENTS

53. RIGHT THUMB PRINT

[redacted]

CCB USE ONLY	HEIGHT	WEIGHT	HAIR	EYES	COMPLEX	SCARS/MARKS/TATTOOS

DISTRIBUTION: Page 1 to ID & R. Page 2 & 3 to Prosecutor, Page 4, Unit Copy, Page 5 Officer's Copy

COMPLETE ALL REQUIRED FIELDS AND MAKE FIVE COPIES FRONT TO BACK

55. EMPLOYMENT HISTORY (List present employment if any, on Line 1)

FROM - DATE - TO	EMPLOYER	ADDRESS	BUS. PHONE	OCCUPATION
1 Present	NONE			
2				

56. NAMES OF LIVING FAMILY, RELATIVES, FRIENDS AND ASSOCIATES (Begin with immediate family)

RELATIONSHIP	DOB/AGE	NAME - LAST, FIRST, M.I.	ADDRESS - STREET, CITY, STATE, ZIP CODE	PHONE NUMBER
		NONE		

57. MILITARY SERVICE BRANCH/DATE FROM - TO	58. TELEPHONE CALL MADE	59. PHONE NUMBER
N/A	☐ YES ☒ NO ☐ REFUSED	N/A

60. STATEMENT OF FACTS: (Give a brief statement in your own words, of the facts surrounding the offense and the arrest. Use Continuation Form PD 252A for additional space. Note present condition of any injured person(s). Do not give Witnesses' Names or Addresses. Refer to them as W1 or W2, etc as indicated in Item 31.)

The event occurred on 3-15-08 at approximately ~~at 115 ANACOCOSTIA AVE NE in Washington DC~~
The event occurred on 3-15-08 at approximately 0130 at 115 Anacostia Ave. NE in Washington DC.

Uniform members of the Meropolitan Police Department responded to 115 Anacostia Avenue Northeast, Washington, DC to investigate a compaint of Illegal activiites which generated from inside of the event location.
The information came from a former ANC commissioner, W-1. W-1 also stated, the listed property has been vacant for several months.

Uniformed members of the Metropolitan Police Department arrived on the scene. Master Patrol Officer Gregory Phifer and Officer Edwin Espinosa walked to the front door and heard loud music coming from inside of the house. MPO Phifer and Officer Espinosa knocked on the door and observed an unidentified male look out of the window. After the person recognized MPO Phifer and Officer Espinosa as uniform members of the Metropolitan Police Department, he was last seen running upstairs from the window.
MPO Phifer and Officer Espinosa knocked on the front door. The door became ajar and observed inside was several females conducting lap dances. These same females were dressed in attire not commonly worn in ublic (Ie: thongs, g-strings and bra's). Also noted was US Currency attached to an elastic band strapped to their leg. the observations were consistant with activity being conducted in strip clubs for profit.
MPO Phifer radioed nearby members of Metropolitan Police Department for Assistance and Officer David Jarboe and Officer Faraz Khan responded along with other members of MPD.
While on the scene, the spectators were drinking alcoholic beverages and holding US currency in their hands. A strong odor of Marijuana was also detected. MPD members then went inside and identified all the occupants of the residence. While conducting interviews, the listed narcotics were recovered by Officer Parker on a nearby window ledge inside of the home and placed on the listed property book.
The Marijuana was fiel... ested which gave a positive color reaction for the presence of THC, the active ingredient in Marijuana.
Upon further inspection of the home the rear kitchen was setup in a manner sumilar to a bar which consisted of plastic cups and liquor. In another room open condoms were also observed. The entire home was in disarray which was also consistant with it being a vacant property.
Further investigation revealed no one coulde be located as having given permissing to occupy the listed property. W-2, a nearby neighbor also told Officer Newman that he lived in the area for numerous years and the listed propery was supposed to be vancant.
All parties inside of the home were identified as being the defendants and placed under arrest. The defendant was later transported were later transported to the Sixth District for processing. the defendant him/herself verbally as being [redacted].
The defendant was placed under arrest for disorderly conduct

(Use PD 118 for defendant's written statement.)

2. RECORD CLERK'S NAME	3.	5.	64. PROPERTY BOOK/PAGE NO. PRISONER'S PROPERTY ONLY
TABRON			
ARREST RECORD SUMMARY 1. 2.	4.	6.	

65. BAIL REFORM ACT CASES: Was a statement made by defendant in reference to his/her failure to appear? ☐ Yes ☐ no
(If yes, include in Defendant's Version/Remarks Section above.)

66. PRINTED NAME - OFFICER MAKING STATEMENT	BADGE NUMBER	RANK	68. SIGNATURE OF REVIEWING OFFICIAL
Bonds, Casey	3761	OFC	
67. SIGNATURE OF OFFICER MAKING STATEMENT	UNIT	DATE	UNIT / DATE
	6D	3/15/2008	6D / 03/15/08

[1] UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Case No. 09-501 (RWR)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Thursday, April 8, 2010
Washington, D.C.

Deposition of ETHELBERT DALTON LOUIS

the plaintiff, called for examination by counsel for the defendants, pursuant to notice, held in the Office of the Attorney General, 441 Fourth Street, N.W., 6th Floor South, Washington, D.C. 20001, beginning at 1:14 p.m., before Kelly Susnowitz, a Notary Public in and for the District of Columbia, when were present on behalf of the respective parties:

* * *

[26] A. A few, probably three or four, somewhere around there.

Q. Are you aware that there were 20 folks arrested in that house?

A. Yes, I'm aware. The police said 21.

Q. Twenty-one?

A. Yeah, because they did mention that more than one time and, before that, they were talking about bringing the paddy wagon or whatever – I mean, the vehicle to pick us up, they were talking about the amount of people and that they would need, probably, some more.

Q. Based on the number of cars you saw leaving and the number of people you saw leaving and the information you heard while you were arrested, that there were 21 people being arrested, is it fair to say that there were over 30 people in the house at some point?

MR. LATTIMER: Objection. Relevance and materiality, calls for speculation.

A. I don't know that.

[27] Q. Now, when you arrived at 1:00 in the morning, you walked in through the front door?

A. Yes.

Q. And what did you see?

A. The house was dark.

Q. Dark, in what sense?

A. I mean, it was dark. The light was low. The house was dark and the music was low.

Q. Could you see individuals?

A. I could make out some, but the house was dark. If you were to turn those lights off, it was like that.

Q. Could you make out what the people were doing?

A. I saw some people sitting in the living room.

Q. Were they male or female?

A. Male and female.

Q. And they were just sitting in the living room?

A. Sitting in the living room.

[28] Q. Did you see any women dancing?

A. I saw – I probably saw a couple.

Q. Did you see any of the women with money in a garter belt or G – the garter belt?

A. I couldn't see that.

Q. Did you see any of the women giving any of the people that were there, lap dances?

A. They were dancing. I believe that's a lap dance.

Q. Well, do you know what a lap dance is?

A. Yeah, they're sitting on top of the person.

Q. Is that what you saw?

A. I saw a couple.

Q. Sitting on top of somebody that was sitting down on a chair?

A. Yes.

Q. Did you see anybody engage in any kind of sexual activity?

A. No.

Q. How long did you stay on the first floor?

[29] A. I was there a little bit. When I came in, walked around and went upstairs.

Q. Did you have a lap dance while you were downstairs?

A. No.

Q. Why did you go upstairs?

A. I asked where Fuzzy was and I was going to talk to him and they said he was upstairs, so I went upstairs.

Q. Who did you ask where Fuzzy was?

A. One of the guys, probably the tall guy they call Six-nine,

Q. Prior to that night, did you know Six-nine?

A. I'd seen him before.

Q. When you came in at 1:00 o'clock in the morning and you were on the first floor, did you recognize any of the people that was on the first floor, other than Six-nine?

A. Some people.

Q. Who did you recognize?

* * *

[1] UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

C.A. No. 09-501 (RWR)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Wednesday, March 31, 2010
Washington, D.C.

The deposition of BRITTANY CHAQUE STRIBLING was called for examination by counsel for Defendants in the above-entitled matter, pursuant to notice, in the Offices of Attorney General for the District of Columbia, 441 Fourth Street, Northwest, Washington, D.C., convened at 11:10 a.m. before Jonell Easton, a notary public, when were present on behalf of the parties:

* * *

[22] Q. Were you living with Lynn at that time?

A. At the time I was.

Q. Do you recognize anybody in that picture?

A. No.

Q. Now, when the police arrived or came upstairs and they told everybody to go downstairs, what do you do?

A. Got my bag and I was proceeding to walk out the door.

Q. What kind of bag?

A. A purse.

Q. Where was it?

A. Sitting on the floor.

Q. When you were upstairs, were you sitting on the floor just prior to the police arriving?

A. Yes, I was sitting on Lynn's lap.

Q. When you went downstairs, was the room still dim or were the lights on?

A. Lights were on.

Q. What do you recall seeing?

A. I recall seeing everybody sitting on the [23] floor, sitting along the walls, everybody in that exhibit.

Q. Did you, at that, time recognize any of the individuals?

A. No.

Q. Am I correct that you have testified that the only individuals that you knew there that evening were Tasha, Theodore, Joe and Lynn?

A. No.

Q. Who else did you know?

A. Stan.

Q. I'm sorry, and Stan.

When I asked you when you went upstairs and the lights were on, you did recognize Stan?

A. Not at that point.

Q. At what point did you realize Stan was there?

A. When they told me sit in the corner and I seen Stan.

Q. Where did you know Stan from?

A. Lynn's uncle and his roommate.

[24] Q. Since this arrest on the 16th of March, have you and Lynn talked about what happened at the house this evening?

A. Yes.

Q. What did you say and what did he say?

A. First I asked him why he was there when he knew we are leaving out of town and he said he wanted to wish his friend well before he got married.

Q. Who was the friend?

A. I don't know. I never met the guy.

Q. Do you know if the friend was there?

A. No, I don't know.

Q. Did you ask him who the friend was?

A. No, I didn't.

Q. What did you say to Lynn in response to what you told me he said to you?

A. I said okay, I mean.

Q. Were you upset that he was there?

A. No.

Q. When you went to 115 Anacostia Road, did [25] you know who owned that house?

A. No.

Q. Did you know who was renting the house?

A. No.

Q. That was your first time being there?

A. Yes.

Q. Do you know if that was Lynn's first time being there?

A. Yes.

Q. How do you know?

A. Because I asked him and I know he wouldn't lie.

Q. When the police told everybody to go downstairs, you went downstairs, then what happened next?

A. I proceeded to walk out the door.

Q. Front door?

A. Yes,

Q. And what happened?

A. They were going to let me leave until another police officer walked up, a detective, I

* * *

[1] UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Case No. 09-501 (RWR)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Thursday, April 8, 2010
Washington, D.C.

Deposition of LYNN WARWICK TAYLOR

the plaintiff, called for examination by counsel for the defendants, pursuant to notice, held in the Office of the Attorney General, 441 Fourth Street, N.W., 6th Floor South, Washington, D.C. 20001, beginning at 12:02 p.m., before Kelly Susnowitz, a Notary Public in and for the District of Columbia, when were present on behalf of the respective parties:

* * *

[22] lady sitting down, do you know who that woman is?

A. No, huh-huh. It looks like I may have seen her face before, but I don't know her.

Q. Now, you said that at some point your girlfriend showed up?

A. Yeah, uh-huh, Brittany.

Q. Why was Brittany there?

A. She was coming to get me. We were supposed to go out of town to Atlantic City.

Q. Did Brittany know that you were going to be at 115 Anacostia Road?

A. She knew that I was going to stop by.

Q. Did you tell her why you were going to stop by?

A. I told her I was going to see my sister, that's what I call her, my stepsister.

Q. Did you tell Brittany what was going to be going on in that house?

A. A bachelor's party, yes, sir.

Q. Do you know what time Brittany arrived?

A. I don't remember.

[23] Q. Do you know how long you were in the house before Brittany arrived, approximately?

A. I don't want to give you false information. I don't really remember. That was two years ago. I don't remember.

Q. Do you know if it was more than five minutes, and I'm talking from the time that you arrived –

A. She may have come, maybe, I'm going to say an hour, maybe an hour or two after I was there.

Q. And when she arrived, where within the house were you?

A. I was upstairs. I was upstairs the whole time.

Q. And when she came into the house, did you hear her calling your name?

A. Yes, she had called me on the cell phone, so I went down and opened the door for her and then we went back upstairs.

Q. When you came downstairs to open the door for Brittany, were there individuals in the living [24] room?

A. You know what, I didn't really pay that much attention. It wasn't that many people in there at that lime or they must have been scattered. I didn't really pay attention. I opened the door and we went back upstairs.

Q. Do you know if there was anybody in the kitchen area?

A. I was upstairs. I don't know.

Q. Did you stay upstairs the entire time, from the time Brittany showed up until the time the police arrived, were you upstairs?

A. I was upstairs, basically, the whole night.

Q. Other than the time that you came downstairs to open the door for Brittany, did you come downstairs at any other point that evening or early morning?

A. I was basically upstairs.

Q. Where were you and Brittany going?

A. Atlantic City.

[25] Q. What time were you supposed to leave?

A. We were supposed to leave that night. I told her I was going to run some errands and we were waiting on her friend who was coming from North Carolina, a young lady named, Jakcqway, and her and her boyfriend was going with us to Atlantic City and we never made it.

Q. Do you still see Brittany?

A. No, she left me.

Q. When was the last time – when did the two of you break up?

A. I don't know man, maybe a year and something ago.

Q. Since the breakup, you have not seen her?

A. Not at all. I heard she was a little big, having a baby or something.

Q. Let me ask, maybe, the obvious question, you are not the father of that baby?

A. No, not at all.

Q. Did you know if Brittany ever worked at the dance clubs or the strip clubs?

* * *

[1] UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

C.A. No. 09-501 (RWR)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Wednesday, March 31, 2010
Washington, D.C.

The deposition of ALISSA SHANTAY COLE was called for examination by counsel for Defendants in the above-entitled matter, pursuant to notice, in the Offices of Attorney General for the District of Columbia, 441 Fourth Street, Northwest, Washington, D.C., convened at 2:10 p.m. before Jonell Easton, a notary public, when were present on behalf of the parties:

* * *

[6] A. Okay.

Q. Lastly, if, for any reason, you need a break, let me know.

A. Okay.

Q. And the only time that I will not allow you to take a break is if I have asked a question and you have not given an answer. I would like you to give an answer before we take a break. Okay?

A. Okay.

Q. Ms. Cole, do you go by any other nicknames?

A. Lola.

MR. LATTIMER; One of the things is she can't take down a nod of the head, so if you could say yes or no.

THE WITNESS: Okay, no problem.

BY MR. JACKSON:

Q. How do you spell that?

A. L-O-L-A.

Q. Under what circumstance do you use the name Lola?

[7] A. I use it as a dance name and nickname.

Q. And is dancing your profession?

A. Yes.

Q. Where do you work?

A. Irving's.

Q. How long have you been there?

A. About three years.

Q. What is your date of birth?

A. [redacted]

Q. What is your Social Security number?

A. [redacted]

Q. Do you receive any kind of financial assistance or medical assistance from the D.C. government?

A. [redacted]

Q. [redacted]

A. [redacted]

Q. [redacted]

A. [redacted]

[8] Q. Where do you live?

A. Baltimore, Maryland.

Q. Do you live with anybody or?

A. I live alone, me and my children.

Q. How many children do you have?

A. Two.

Q. Boys?

A. [redacted]

Q. Is her birthday coming up soon?

A. July.

Q. Let me move to the late night of March 15, early morning March 16, 2008. At some point during either the 15th or 16th, were you at 115 Anacostia Road, N.W. in Washington?

A. Ye .

Q. What time did you arrive there?

A. I think between 11:00 and 12:00,

Q. And what was the purpose of going there?

A. I was going to a bachelor party.

Q. Did someone ask you?

[9] A. Yeah, a girlfriend asked me, we were at Irving's and we left to go to the party.

Q. Who was the girlfriend?

A. Brittany Brown.

Q. Prior to March 15, had you ever been at 115 Anacostia Road before?

A. No.

Q. Was its just you and Brittany when you went from work to Anacostia Road?

A. It was just us two.

Q. And did you drive there or did she drive?

A. She drove.

Q. Do you know if Brittany Brown had ever been at 115 Anacostia Road?

A. No, she hadn't been there before.

Q. Remember what I said, let me finish my question before you give the answer.

How do you know she had never been there before?

A. Just my friend, she said do you want to go do this party, bachelor party, and I said yes, I

* * *

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Filed 04/01/11]

Civil Action No. 09-571 (RMC)

THEODORE WESBY, *et al.*,
Plaintiff,

v.

DISTRICT OF COLUMBIA, *et al.*,
Defendants.

DEFENDANT ANTHONY CAMPANALE'S RESPONSES AND OBJECTIONS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES

Pursuant to Fed. R. Civ. Pro. 33, Defendant Anthony Campanale, having been first duly sworn under oath, upon information and belief, gives the following answers to interrogatories propounded to defendant by plaintiff:

(a) Defendant reserves the right to amend, revise, or supplement its answers to these interrogatories if and when new or different information becomes available.

(b) For any additional responsive information made available through deposition testimony, the defendant incorporates such information for the purpose of giving the plaintiff notice that such information exists, but does not adopt such testimony as accurate and complete.

(c) Defendant, in accordance with Fed R. Civ. Pro. 33(d), may refer plaintiffs to the documents attached

hereto in order to answer these interrogatories when such answer "maybe derived or ascertained" from the document[s] and "the burden of deriving or ascertaining the answer is substantially the same" for both parties.

(d) Defendant objects to the production of any information that is protected by the attorney-client privilege, deliberative process privilege, work product doctrine or any similarly recognized privilege. Inadvertent production of any information or documents so privileged does not constitute a waiver of such privilege or any grounds for grounds for objecting to the discovery request.

(e) Defendant objects to any part of the Plaintiffs' instruction that seeks to impose any discovery requirements outside the scope of the rules, especially any obligation to produce information not in the Defendant's control or not currently known to its attorneys after reasonable inquiry.

INTERROGATORIES

1. Please fully state your full name, date of birth, martial status, social security number, business address and residential address for the last five years, and your spouse's name.

RESPONSE: Further the defendant objects to this Interrogatory to the extent that it seek my residential address for the last five years, my date of birth, my marital status, and my social security number because such information is an unwarranted invasion of my privacy. Subject to and without waiving the above objections, I answer this interrogatory as follows: my name is Anthony Campanale; my business address is 100 42nd St NE Washington, DC 20019.

2. Give a concise statement of the facts surrounding the arrest of the plaintiffs as you contend it occurred. In answering, please identify each and every document utilized, review or relied upon to respond or which allegedly supports the representations in your response, and specifically identify the individual answering this interrogatory.

RESPONSE: I was on routine patrol with Officer Parker when Officer Jarboe called to inform us that there were people in a house at 115 Anacostia Avenue, NE, Washington. When we arrived at the address Officer Jarboe told us that the people in the house should not be there. He also told us that he had received information from neighbors that this was an ongoing problem. Officer Jarboe further said that the neighbors had advised him that the house was abandoned and nobody should be in it. I then proceeded to the rear of the house to make sure that nobody ran out the back door. As I entered the back door I observed all of the individuals sitting on the floor in the living room. I observed some individuals holding cups of liquor and beer and there were cups of liquor and beer on the floor. I could also smell marijuana. I also observed female provocatively dressed with dollars bills in a garter belt around their leg. All individuals were asked who the owner of the house was and where the owner was. The individuals were asked to sit in the living room. I then proceeded to take pictures of all the individuals and every room in the house. Sergeants Suber and Matthews then arrived on the scene and at that point we began asking the individuals for identification. When asked who gave them permission to be in the house plaintiff Natasha Chiitam indicated that a woman by the name of "Peaches" gave them permission. I know that Officer Parker spoke with "Peaches" but she refused to come

back to the house. None of the individuals could say who gave them permission to be in the house. Sergeant Suber made the decision to arrest the individuals for unlawful entry, After the scene was cleared I returned to the Sixth District police station for processing.

3. For each plaintiff, detail each and every illegal act that you observed him or her engage in. In answering, state with specificity where each identified plaintiff was located at the time that he/she was engaged in the illegal conduct alleged and all evidence that you collected in support of the alleged illegal conduct.

RESPONSE: Each of the plaintiffs was arrested for unlawful entry.

4. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who claim that they witnessed all or part of the incident referenced in the complaint, or who were near or at the scene at the time of the occurrence. State concisely but completely what such persons claim to have witnessed.

RESPONSE: Defendant objects to this Interrogatory to the extent that it requests me to disclose the home address and telephone numbers of all persons who claim to have witnessed all or part of the incident referenced in the complaint because providing such information is an unwarranted invasion of privacy. In any event, I do not know the home addresses and telephone numbers of those who claim to have witnessed all or part of the incident. I did not question any of the police officers or officials as to what the observed, and therefore, I don't know what they claimed to have witnessed.

5. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who arrived at the scene within one (1) hour after the occurrence. State concisely but completely of what such persons claim to have witnessed.

RESPONSE: Defendant objects to this Interrogatory to the extent that it requests me to disclose the home address and telephone numbers of all persons who arrived on the scene within one (1) hour after the occurrence because providing such information is an unwarranted invasion of privacy. In any event, I do not know the home addresses and telephone numbers of those who may claim to personal knowledge of the occurrence. Subject to and without waiving the above objections, Officer Parker, Officer Cory Bonds, Officer Khan, Officer Espinosa, Officer Jarboe, Sergeant Suber, Sergeant Mathews, Officer Newman, MPO Phifer arrived at the scene within one hour after the occurrence and their address is 100 42nd St NE Washington DC 20019; (202) 698-0880. I don't know what they claimed to have witnessed.

6. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who are known by you to have, or have claimed to have, personal knowledge or information of relevant facts which may pertain to the cause of the occurrence. State concisely but completely the nature of such personal knowledge or information.

RESPONSE: Defendant objects to this Interrogatory to the extent that request I disclose the home address and telephone numbers of all persons who have or claim to have personal knowledge or information of the facts in this case because providing such information

is an unwarranted invasion of privacy. In any event, I do not know the home addresses and telephone numbers of those who may claim to personal knowledge or information of the occurrence. Subject to and without waiving the above objection, I don't know who claims to have personal knowledge or information of relevant facts which may pertain to the cause of the occurrence.

7. Have any of the persons whose names were furnished in response to any of the foregoing Interrogatories, or anyone else, made or given to you any statement or report concerning the incident which is the subject of this lawsuit? If the Answer is in the affirmative, state the name, home address, home telephone number, occupation, business address and business telephone number of each such person who made or gave such statement or report, the dates thereof, the content of each such statement, whether it was written or reduced to writing and the names and addresses of any and all persons in custody of possession thereof. Please attach a copy of the same to your Answers.

RESPONSE: No one has given me a statement. I am not aware of any statements that exist.

8. State the name, present home address, occupation and business address of any and all persons who made an investigation to ascertain any fact relevant to the issues in this case, including particularly, but not exclusively, all investigators, officers, detectives, police officials, experts and/or specialists. State concisely but completely the facts ascertained. If you will do so without a Request for Production, please attach a copy of any resulting reports(s) to your Answers.

RESPONSE: Defendant objects to this Interrogatory to the extent that request I disclose the home address of persons who investigated the facts at issue in this case because providing such information is an unwarranted invasion of privacy. In any event, I do not know what investigation this Interrogatory is referencing. Subject to and without waiving the above objection, to the best of my knowledge there was no investigation or interviews done other that what was conducted on the scene. I do not have in my custody or possession any investigative reports.

9. Did any of the plaintiffs make or give to you, or your agents or representatives, any statement or report concerning the occurrences referred to in the complaint or concerning any fact pertaining to any issue in this case? If the answer is in the affirmative, state when, where and to whom such statement(s) was/were made or given, whether or not it is in writing, the content of such statement, the name, home address, home telephone number, occupation, business address and business telephone number of any and all persons who have the original, and attach a copy thereof to your answers.

RESPONSE: I recall asking several of the individuals for identification and who gave them permission to be in the house. I do not recall which individuals I questioned. As previously stated only plaintiff Chittam said that Peaches gave them permission to be in the house. Others stated that they were there at the invitation of somebody else.

10. Have you engaged any expert(s) whom you intend to call as witness(es) at trial, whether in anticipation for trial, preparation for litigation, or for any other purpose contemplated to obtain opinions, advice or information regarding facts or issues relevant to

this case? If yes, state: (a) the names home addresses, occupation and business addresses of said expert(s), (b) whether any report, oral or written, has bee obtained from said experts(s), (c) furnish the dates thereof, (d) attach here a copy of said written reports(s), and (e) state the contents of any and all oral reports from said expert(s) as to the finding and opinions of the said expert.

RESPONSE: I have not engaged any expert(s) whom I intend to call as witness(es) at trial,

11. Do you have within your possession or control, or do you have knowledge of any photograph, picture, audio recording, motion picture, plats or diagrams of the scene, the plaintiff(s) or other items which pertain in any way to the occurrence alleged in plaintiffs' complaint? If the answer to this Interrogatory is in the affirmative in any way, fully identify the item or items in your possession.

RESPONSE: I did take pictures on the night of the incident and all pictures have been turned over to MPD. Based on information and belief, those pictures were produced by the District of Columbia in its initial disclosures. I also know that there is booking pictures of the individuals arrested.

12. Identify each of the police officer, including supervisors, who responded to the scene which is the subject of this lawsuit. For each of the identified officers, please provide the following information:

a. His/Her rank, assignment location, and duties on the scene;

b. Whether or not he/she assisted in the arrest of the plaintiffs

RESPONSE: Please refer to Interrogatory number 5 for the names and rank of all police officers and supervisors who responded to the scene. For all identified officers named I do not know their assignment location, duties on the scene or whether or not they assisted in the arrest of plaintiffs.

13. Identify any and all lawsuits and/or disciplinary proceedings of any kind in which you have been involved in, in any way, during your tenure with the Metropolitan Police Department and state in detail the nature of the disciplinary proceedings and/or lawsuit, the date of the disciplinary proceeding or lawsuit was filed, the allegations asserted therein, the outcome of the disciplinary proceedings or lawsuit, the name of all parties to the lawsuit, the forum and/or court in which the disciplinary proceeding or lawsuit was filed and the outcome of the proceeding, indicating whether the proceeding is still pending.

RESPONSE: [redacted]

14. Identify any and all instances wherein you have been the subject of any complaint(s) lodged by citizens during his tenure with the Metropolitan Police Department and state in detail the nature of the complaint, the date of the complaint was lodged, the allegations asserted therein, the outcome of any proceedings related thereto, the name of the complaining party, indicating whether the complaint is still pending and identify any and all documents which relate in any way to each such proceeding(s) or complaint(s).

RESPONSE: [redacted]

15. Identify all reports, memorandums, notes, investigations or writings of any kind which refer to any stop, detention, assault and/or arrest of any of the plaintiffs, including but not limited to, the date of the document, author of the document, the recipient of the document and the subject matter of the document. Please produce all such documents.

RESPONSE: Prior to the incident I had no knowledge of any of the plaintiffs. As a result of the events of March 15, 2008, the only reports I am aware of are the PD 163's. Based on information and belief, the PD 163s were included in the District of Columbia's initial disclosures.

16. State with specificity the factual basis of your answer's affirmative defenses.

RESPONSE: The affirmative defenses have been asserted by my attorney.

17. Identify all documents which reference in any way the training provided to you during your tenure as a Metropolitan Police Officer.

RESPONSE: See Exhibit 1, attached hereto.

18. Please state your specific duties on the date in which the incident occurred, including your specific assignment, to whom you were to report, the name of all the officers who were working with you on the day of question, the vehicle assigned to you, your duty hours for that day and what specific duties were you performing at the time of the incident.

RESPONSE: The Defendant objects to this Interrogatory as it is unclear which officers plaintiff is inquiring about. Subject to and without waiving the above objection, on the night of the incident I was assigned to the power shift which is regular patrol. I was to report to Sergeant Mary Mathews. Please refer to Interrogatory number five for the names of all officers I was working with on the night in question. I don't remember the vehicle number but it was a DC Cruiser. My hours were 1930-0400, at the time of the incident I was on patrol.

19. Describe in detail the basis for your 1) detention of any plaintiff, 2) handcuffing of any plaintiff and 3) arrest of any plaintiff, and in doing so please identify any and all reports, notes, or documentation of any kind that memorializes the referenced events and reasons stated.

RESPONSE: Individuals were detained, handcuffed and arrested for unlawful entry.

20. If it is your contention that you did not detain, handcuff or arrest any plaintiff during the incident which is the subject of this lawsuit, identify all person(s) who you contend engaged in the foregoing, providing their full name, rank, and business address.

RESPONSE: I do not know who would have detained, handcuffed or arrested any of the plaintiff's on the night of the incident.

21. Please describe in detail the facts and circumstances surrounding how you came to enter the residence located at 115 Anacostia Road, N.E., Washington, D.C.

RESPONSE: See Interrogatory No. 2.

22. If it is your contention that you did not enter the residence identified above, identify all person(s) who you contend entered the residence, providing their full name, rank and business address.

RESPONSE: I did enter the house on the night of the incident.

I have read the foregoing answers to interrogatories, and they are true to the best of my knowledge, information, and belief.

/s/Anthony Campanale
ANTHONY CAMPANALE

SWORN AND SUBSCRIBED before me, a Notary Public, this 19th day of March 2010.

/s/ Dawne Rhonda Daye
Notary Public, D.C.

My Commission Expires:

DANE RHONDA DAYE
NOTARY PUBLIC DISTRICT OF COLUMBIA
MY COMMISSION EXPIRES JANUARY 31, 2014

[Counsel's Signature Block and
Certificate of Service Omitted in Printing.]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Filed 04/01/11]

Civil Action No. 09-571 (RMC)

THEODORE WESBY, *et al.*,

Plaintiff,

v.

DISTRICT OF COLUMBIA *et al.*,

Defendants.

DEFENDANT EDWIN ESPINOSA'S RESPONSES AND OBJECTIONS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

Pursuant to Fed. R. Civ. Pro. 33, Defendant Edwin Espinosa, having been first duly sworn under oath, upon information and belief, gives the following answers to interrogatories propounded to defendant by plaintiff:

(a) Defendant reserves the right to amend, revise, or supplement its answers to these interrogatories if and when new or different information becomes available.

(b) For any additional responsive information made available through deposition testimony, the defendant incorporates such information for the purpose of giving the plaintiff notice that such information exists, but does not adopt such testimony as accurate and complete.

(c) Defendant, in accordance with Fed R. Civ. Pro. 33(d), may refer plaintiff to the documents attached hereto in order to answer these interrogatories when such answer "maybe derived or ascertained" from the document[s] and "the burden of deriving or ascertaining the answer is substantially the same" for both parties.

(d) Defendant objects to the production of any information that is protected by the attorney-client privilege, deliberative process privilege, work product doctrine or any similarly recognized privilege. Inadvertent production of any information or documents so privileged does not constitute a waiver of such privilege or any grounds for grounds for objecting to the discovery request.

(e) Defendant objects to any part of the Plaintiff's instruction that seeks to impose any discovery requirements outside the scope of the rules, especially any obligation to produce information not in the Defendant's control or not currently known to its attorneys after reasonable inquiry.

INTERROGATORIES

1. Please fully state your full name, date of birth, martial status, social security number, business address and residential address for the last five years, and your spouse's name.

RESPONSE: The Defendant objects to this Interrogatory to the extent that it seeks irrelevant or inadmissible information, or information not likely to lead to the discovery or relevant or admissible evidence. Further the defendant objects to this Interrogatory to the extent that it seek my residential address for the last five years, my date of birth, my social security number, marital status, and the name of my

spouse because such information is an unwarranted invasion of my privacy. Subject to and without waiving the above objections, I answer this interrogatory as follows: my name is Edwin Espinosa and my business address is 100 42nd St NE Washington, DC 20019.

2. Give a concise statement of the facts surrounding the arrest of the plaintiffs as you contend it occurred. In answering, please identify each and every document utilized, review or relied upon to respond or which allegedly supports the representations in your response, and specifically identify the individual answering this interrogatory.

RESPONSE: On March 15, 2008, I was partnered with my training Officer, MPO Phifer. MPO Phifer had a conversation with Officer Jarboe. I not know the substance of their conversation. When MPO Phifer and I left the District police station, MPO Phifer drove to 115 Anacostia Avenue, NE. When we arrived at 115 Anacostia Avenue there were other police officers already on scene. MPO Phifer approached the premises and knocked on the door. An individual opened the door and I could see people in the house scattering into different rooms. I was not one of the first officer and I do not know who entered first. I believe I was one of the last officer to enter and I just stood by the door. I did not question, search, detain, handcuff or tell any of the individuals that they were under arrest. Additionally, I did not transport any of the individuals to the District police station. After MPO Phifer and I left the premises we went directly to the Sixth District station to begin the arrest process. I did not interview any of the individuals who had been arrested. My only involvement was that I completed the 163 by copying the individuals information from the MPD form 256. Although I signed the 163 I did not write the narrative.

3. For each plaintiff, detail each and every illegal act that you observed him or her engage in. In answering, state with specificity where each identified plaintiff was located at the time that he/she was engaged in the illegal conduct alleged and all evidence that you collected in support of the alleged illegal conduct,

RESPONSE: Each of the plaintiffs was arrested for unlawful entry.

4. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who claim that they witnessed all or part of the incident referenced in the complaint, or who were near or at the scene at the time of the occurrence. State concisely but completely what such persons claim to have witnessed.

RESPONSE: I did not question any of the police officers or officials as to what they observed, and therefore, I don't know what they claimed to have witnessed. To the best of my recollection the only people known to me who would have personal knowledge would be the police officers and officials on the scene. I do not know any of their homes addresses or telephone numbers. All of the police officers and officials on the scene were from the Sixth District. I do not recall all of the officers or officials on the scene but I do recall Officer Khan, MPO Phifer and Officer Jarboe being present.

5. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who arrived at the scene within one (1) hour after the occurrence. State concisely but completely of what such persons claim to have witnessed.

RESPONSE: I do not know who arrived on the scene within one (1) hour after the occurrence.

6. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who are known by you to have, or have claimed to have, personal knowledge or information of relevant facts which may pertain to the cause of the occurrence. State concisely but completely the nature of such personal knowledge or information.

RESPONSE: Defendant objects to this Interrogatory to the extent that request I disclose the home address and telephone numbers of all persons who arrived on the scene within one (1) hour after the occurrence because providing such information is an unwarranted invasion of privacy. In any event, I do not know the home addresses and telephone numbers of those who may claim to personal knowledge of the occurrence. I did not question any of the police officers or officials as to their personal knowledge or information of relevant facts.

7. Have any of the persons whose names were furnished in response to any of the foregoing Interrogatories, or anyone else, made or given to you any statement or report concerning the incident which is the subject of this lawsuit? If the Answer is in the affirmative, state the name, home address, home telephone number, occupation, business address and business telephone number of each such person who made or gave such statement or report, the dates thereof, the content of each such statement, whether it was written or reduced to writing and the names and addresses of any and all persons in custody of possession thereof. Please attach a copy of the same to your Answers.

RESPONSE: No one has given me a statement. I am not aware of any statements that exist.

8. State the name, present home address, occupation and business address of any and all persons who made an investigation to ascertain any fact relevant to the issues in this case, including particularly, but not exclusively, all investigators, officers detectives, police officials, experts and/or specialists. State concisely but completely the facts ascertained. If you will do so without a Request for Production, please attach a copy of any resulting reports(s) to your Answers.

RESPONSE: Defendant objects to this Interrogatory to the extent that request I disclose the home address of persons who investigated the facts at issue in this case because providing such information is an unwarranted invasion of privacy. In any event, I do not know what investigation this Interrogatory is referencing. I do not have in my custody or possession any investigative reports.

9. Did any of the plaintiffs make or give to you, or your agents or representatives, any statement or report concerning the occurrences referred to in the complaint or concerning any fact pertaining to any issue in this case? If the answer is in the affirmative, state when, where and to whom such statement (s) was/were made or given, whether or not it is in writing, the content of such statement, the name, home address, home telephone number, occupation, business address and business telephone number of any and all persons who have the original, and attach a copy thereof to your answers.

RESPONSE: No.

10. Have you engaged any expert(s) whom you intend to call as witness(es) at trial, whether in anticipation for trial, preparation for litigation, or for any other purpose contemplated to obtain opinions, advice or information regarding facts or issues relevant to this case? If yes, state: (a) the names home addresses, occupation and business addresses of said expert(s), (b) whether any report, oral or written, has bee obtained from said experts(s), (c) furnish the dates thereof, (d) attach here a copy of said written reports(s), and (e) state the contents of any and all oral reports from said expert(s) as to the finding and opinions of the said expert.

RESPONSE: I have not engaged any expert(s) whom I intend to call as witness(es) at trial,

11. Do you have within your possession or control, or do you have knowledge of any photograph, picture, audio recording, motion picture, plats or diagrams of the scene, the plaintiff(s) or other items which pertain in any way to the occurrence alleged in plaintiffs' complaint? If the answer to this Interrogatory is in the affirmative in any way, fully identify the item or items in your possession.

RESPONSE: I did not take any pictures nor do I have any pictures in my possession or control. I know that there were pictures taken, and based on information and belief, those pictures were produced by the District of Columbia in its initial disclosures.

12. Identify each of the police officer, including supervisors, who responded to the scene which is the subject of this lawsuit. For each of the identified officers, please provide the following information:

a. His/Her rank, assignment location, and duties on the scene;

b. Whether or not he/she assisted in the arrest of the plaintiffs

RESPONSE: The only people I recall being on the scene were myself, MPO Phifer, Officer Jarboe and Officer Khan. I do not know their assignment location, duties on the scene or whether or not they assisted in the arrest of plaintiffs.

13. Identify any and all lawsuits and/or disciplinary proceedings of any kind in which you have been involved in, in any way, during your tenure with the Metropolitan Police Department and state in detail the nature of the disciplinary proceedings and/or lawsuit, the date of the disciplinary proceeding or lawsuit was filed, the allegations asserted therein, the outcome of the disciplinary proceedings or lawsuit, the name of all parties to the lawsuit, the forum and/or court in which the disciplinary proceeding or lawsuit was filed and the outcome of the proceeding, indicating whether the proceeding is still pending.

RESPONSE: I have not been the subject of any lawsuits and/or disciplinary proceedings of any kind.

14. Identify any and all instances wherein you have been the subject of any complaint(s) lodged by citizens during his tenure with the Metropolitan Police Department and state in detail the nature of the complaint, the date of the complaint was lodged, the allegations asserted therein, the outcome of any proceedings related thereto, the name of the complaining party, indicating whether the complaint is still pending and identify any and all documents which relate in any way to each such proceeding(s) or complaint(s).

RESPONSE: [redacted]

15. Identify all reports, memorandums, notes, investigations or writings of any kind which refer to any stop, detention, assault and/or arrest of any of the plaintiffs, including but not limited to, the date of the document, author of the document, the recipient of the document and the subject matter of the document. Please produce all such documents.

RESPONSE: The only documents that I am aware of would be the PD Form 163, but these reports are not in my custody or control.

16. State with specificity the factual basis of your answer's affirmative defenses.

RESPONSE: I did not detain or handcuff any of the plaintiffs. Further, the affirmative defenses have been asserted by my attorney.

17. Identify all documents which reference in any way the training provided to you during your tenure as a Metropolitan Police Officer.

RESPONSE: See Exhibit 1, attached hereto.

18. Please state your specific duties on the date in which the incident occurred, including your specific assignment, to whom you were to report, the name of all the officers who were working with you on the day of question, the vehicle assigned to you, your duty hours for that day and what specific duties were you performing at the time of the incident.

RESPONSE: I was on regular patrol. I reported to MPO Phifer. No other officers were working with me. I was assigned to a DC cruiser, and was assigned to patrol PSA 603. My duty hours were 2300-0630 (11:00 pm-6:30 am).

19. Describe in detail the basis for your 1) detention of any plaintiff, 2) handcuffing of any plaintiff and

3) arrest of any plaintiff, and in doing so please identify any and all reports, notes, or documentation of any kind that memorializes the referenced events and reasons stated.

RESPONSE: I did not detain or handcuff any plaintiffs. I completed the arrest report because MPO Phifer gave me that assignment.

20. If it is your contention that you did not detain, handcuff or arrest any plaintiff during the incident which is the subject of this lawsuit, identify all person(s) who you contend engaged in the foregoing, providing their full name, rank, and business address.

RESPONSE: As stated previously I completed the arrest reports because I was given that assignment by my training officer MPO Phifer. I did not detain or handcuff any of the plaintiffs. I do not know who detained, handcuff or arrested any of the plaintiffs.

21. Please describe in detail the facts and circumstances surrounding how you came to enter the residence located at 115 Anacostia Road, N.E., Washington, D.C.

RESPONSE: See, answer to interrogatory 2, above.

22. If it is your contention that you did not enter the residence identified above, identify all person(s) who you contend entered the residence, providing their full name, rank and business address.

RESPONSE: I did enter the residence.

I have read the foregoing answers to interrogatories, and they are true to the best of my knowledge, information, and belief.

/s/ Edwin Espinosa
EDWIN ESPINOSA

SWORN AND SUBSCRIBED before me, a Notary Public, this 19th day of March, 2010.

/s/ Dawne Daye
Notary Public, D.C.

My Commission Expires:

DAWNE RHODNA DAYE
NOTARY PUBLIC DISTRICT OF COLUMBIA
MY COMMISSIONS EXPIRES JANUARY 31, 2014

[Counsel's Signature Block and
Certificate of Service Omitted in Printing.]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Filed 04/01/11]

Civil Action No. 09-571 (RMC)

THEODORE WESBY, *et al.*,

Plaintiff,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

DEFENDANT FARAZ KHAN'S RESPONSES AND OBJECTIONS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES

Pursuant to Fed. R. Civ. Pro. 33, Defendant Faraz Khan, having been first duly sworn under oath, upon information and belief, gives the following answers to interrogatories propounded to defendant by plaintiff:

(a) Defendant reserves the right to amend, revise, or supplement its answers to these interrogatories if and when new or different information becomes available.

(b) For any additional responsive information made available through deposition testimony, the defendant incorporates such information for the purpose of giving the plaintiff notice that such information exists, but does not adopt such testimony as accurate and complete.

(c) Defendant, in accordance with Fed R. Civ. Pro. 33(d), may refer plaintiffs to the documents attached

hereto in order to answer these interrogatories when such answer "maybe derived or ascertained" from the document[s] and "the burden of deriving or ascertaining the answer is substantially the same" for both parties.

(d) Defendant objects to the production of any information that is protected by the attorney-client privilege, deliberative process privilege, work product doctrine or any similarly recognized privilege. Inadvertent production of any information or documents so privileged does not constitute a waiver of such privilege or any grounds for grounds for objecting to the discovery request.

(e) Defendant objects to any part of the Plaintiff's instruction that seeks to impose any discovery requirements outside the scope of the rules, especially any obligation to produce information not in the Defendant's control or not currently known to its attorneys after reasonable inquiry.

INTERROGATORIES

1. Please fully state your full name, date of birth, martial status, social security number, business address and residential address for the last five years, and your spouse's name.

RESPONSE: The Defendant objects to this Interrogatory to the extent that it seeks irrelevant or inadmissible information, or information not likely to lead to the discovery of relevant or admissible evidence. Further the defendant objects to this interrogatory to the extent that it seeks my residential address for the last five years, my date of birth, my social security number and my marital status because such information is an unwarranted invasion of my privacy. Subject to and without waiving the above

objections, I answer this interrogatory as follows: my name is Faraz Khan and my business address is 100 42nd St NE Washington, DC 20019.

2. Give a concise statement of the facts surrounding the arrest of the plaintiffs as you contend it occurred. In answering, please identify each and every document utilized, review or relied upon to respond or which allegedly supports the representations in your response, and specifically identify the individual answering this interrogatory.

RESPONSE: On the night in question, I was riding with my training officer, Officer Jarboe. MPO Phifer had a conversation with Officer Jarboe about going to 115 Anacostia Avenue, NE, Washington. I do not recall the exact nature of the conversation between the two of them. Officer Jarboe then drove to 115 Anacostia Avenue and stopped at the rear of the house. I then followed Officer Jarboe into the house through the front door. I saw females dressed only in their bra and thong with money hanging out their garter belts. During the time I was in the house I stayed in the living room. I do not recall who made the decision to arrest the individuals. I returned to the Sixth District police station and began to process the arrestees. MPO Phifer wrote the narrative on the 163 and I signed it. I do not recall who told me to sign the 163.

3. For each plaintiff, detail each and every illegal, act that you observed him or her engage in. In answering, state with specificity where each identified plaintiff was located at the time that he/she was engaged in the illegal conduct alleged and all evidence that you collected in support of the alleged illegal conduct.

RESPONSE: Each of the plaintiffs was arrested for unlawful entry.

4. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who claim that they witnessed all or part of the incident referenced in the complaint, or who were near or at the scene at the time of the occurrence. State concisely but completely what such persons claim to have witnessed

RESPONSE: I did not question any of the police officers or officials as to what they observed, and therefore, I don't know what they claimed to have witnessed. I do not know any of their home addresses or telephone numbers. All of the police officers and officials on the scene were from the Sixth District.

5. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who arrived at the scene within one (1) hour after the occurrence. State concisely but completely of what such persons claim to have witnessed.

RESPONSE: Defendant objects to this Interrogatory to the extent that request I disclose the home address and telephone numbers of all persons who arrived on the scene within one (1) hour after the occurrence because providing such information is an unwarranted invasion of privacy. In any event, I do not know the home addresses and telephone numbers of those who may claim to have personal knowledge of the occurrence. Subject to and without waiving the above objection, Officer Jarboe, MPO Phifer, Officer Campanale, Officer Newman, Officer Simonette, Officer Espinosa, Sergeant Suber, Sergeant Matthews, arrived at the scene within one hour after the occurrence and their address is 100 42nd St NE Washington DC 20019; (202) 698-0880. I did not question any of the police

officers or officials as to they observed, and therefore, I do not know what they may have witnessed.

6. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who are known by you to have, or have claimed to have, personal knowledge or information of relevant facts which may pertain to the cause of the occurrence. State concisely but completely the nature of such personal knowledge or information.

RESPONSE: Defendant objects to this Interrogatory to the extent that I am asked to disclose the home address and telephone numbers of all persons who have or claimed to have personal knowledge or information of the facts of this case because providing such information is an unwarranted invasion of privacy. In any event, I do not know the home addresses and telephone numbers of those who may claim to have personal knowledge or information of the facts of the occurrence. Subject to and without waiving the above objection, I don't know who claims to have personal knowledge or information of relevant facts which may pertain to the cause of the occurrence.

7. Have any of the persons whose names were furnished in response to any of the foregoing Interrogatories, or anyone else, made or given to you any statement or report concerning the incident which is the subject of this lawsuit? If the Answer is in the affirmative, state the name, home address, home telephone number, occupation, business address and business telephone number of each such person who made or gave such statement or report, the dates thereof, the content of each such statement, whether it was written or reduced to writing and the names and

addresses of any and all persons in custody of possession thereof. Please attach a copy of the same to your Answers.

RESPONSE: Defendant objects to this Interrogatory to the extent that I am asked to disclose the home address and telephone numbers of all persons who have or claimed to have personal knowledge or information of the facts of this case because providing such information is an unwarranted invasion of privacy. In any event, I do not know the home addresses and telephone numbers of those who may claim to have personal knowledge or information of the facts of the occurrence. Subject to and without waiving the above objection, the only statement given to me was the narrative on the 163. The narrative was completed by MPO Phifer.

8. State the name, present home address, occupation and business address of any and all persons who made an investigation to ascertain any fact relevant to the issues in this case, including particularly, but not exclusively, all investigators, officers, detectives, police officials, experts and/or specialists. State concisely but completely the facts ascertained. If you will do so without a Request for Production, please attach a copy of any resulting reports(s) to your Answers.

RESPONSE: I do not know what investigation this Interrogatory is referring to. I do not have in my custody or possession any investigative reports.

9. Did any of the plaintiffs make or give to you, or your agents or representatives, any statement or report concerning the occurrences referred to in the complaint or concerning any fact pertaining to any issue in this case? If the answer is in the affirmative, state when, where and to whom such statement(s)

was/were made or given, whether or not it is in writing, the content of such statement, the name, home address, home telephone number, occupation, business address and business telephone number of any and all persons who have the original, and attach a copy thereof to your answers.

RESPONSE: No.

10. Have you engaged any expert(s) whom you intend to call as witness(es) at trial, whether in anticipation for trial, preparation for litigation, or for any other purpose contemplated to obtain opinions, advice or information regarding facts or issues relevant to this case? If yes, state: (a) the names home addresses, occupation and business addresses of said expert(s), (b) whether any report, oral or written, has bee obtained from said experts(s), (c) furnish the dates thereof, (d) attach here a copy of said written reports(s), and (e) state the contents of any and all oral reports from said expert(s) as to the finding and opinions of the said expert.

RESPONSE: I have not engaged any expert(s) whom I intend to call as witness(es) at trial.

11. Do you have within your possession or control, or do you have knowledge of any photograph, picture, audio recording, motion picture, plats or diagrams of the scene, the plaintiff(s) or other items which pertain in any way to the occurrence alleged in plaintiffs' complaint? If the answer to this Interrogatory is in the affirmative in any way, fully identify the item or items in your possession.

RESPONSE: I did not take any pictures nor do I have any pictures in my possession or control. I know that there were pictures taken, and based on information

and belief, those pictures were produced by the District of Columbia in its initial disclosures.

12. Identify each of the police officer, including supervisors, who responded to the scene which is the subject of this lawsuit. For each of the identified officers, please provide the following information:

a. His/Her rank, assignment location, and duties on the scene;

b. Whether or not he/she assisted in the arrest of the plaintiffs

RESPONSE: Please refer to Interrogatory number 5 for the names and rank of all police officers and supervisors who responded to the scene, For all identified officers named I do not know their assignment location, duties on the scene or whether or not they assisted in the arrest of plaintiffs.

13. Identify any and all lawsuits and/or disciplinary proceedings of any kind in which you have been involved in, in any way, during your tenure with the Metropolitan Police Department and state in detail the nature of the disciplinary proceedings and/or lawsuit, the date of the disciplinary proceeding or lawsuit was filed, the allegations asserted therein, the outcome of the disciplinary proceedings or lawsuit, the name of all parties to the lawsuit, the forum and/or court in which the disciplinary proceeding or lawsuit was filed and the outcome of the proceeding, indicating whether the proceeding is still pending.

RESPONSE: I have never been the subject of a lawsuit or subject to discipline.

14. Identify any and all instances wherein you have been the subject of any complaint(s) lodged by citizens

during his tenure with the Metropolitan Police Department and state in detail the nature of the complaint, the date of the complaint was lodged, the allegations asserted therein, the outcome of any proceedings related thereto, the name of the complaining party, indicating whether the complaint is still pending and identify any and all documents which relate in any way to each such proceeding(s) or complaint(s).

RESPONSE: I have never had a citizen complaint filed against me.

15. Identify all reports, memorandums, notes, investigations or writings of any kind which refer to any stop, detention, assault and/or arrest of any of the plaintiffs, including but not limited to, the date of the document, author of the document, the recipient of the document and the subject matter of the document. Please produce all such documents.

RESPONSE: Prior to the night of the incident, I had no knowledge of any of the plaintiffs. As a result of the events March 15, 2008, the only reports I am aware of are the PD 163's. Based on information and belief, the PD 163's I completed and the PD 163's completed by other police officers were included in the District of Columbia's initial disclosures.

16. State with specificity the factual basis of your answer's affirmative defenses.

RESPONSE: The affirmative defenses have been asserted by my attorney.

17. Identify all documents which reference in any way the training provided to you during your tenure as a Metropolitan Police Officer.

RESPONSE: See Exhibit 1.

18. Please state your specific duties on the date in which the incident occurred, including your specific assignment, to whom you were to report, the name of all the officers who were working with you on the day of question, the vehicle assigned to you, your duty hours for that day and what specific duties were you performing at the time of the incident.

RESPONSE: The Defendant objects to this Interrogatory as it is unclear which officers plaintiff is inquiring about. Subject to and without waiving the above objection, on the night of the incident I was working a regular patrol with Officer Jarboe, my training officer. I was to report Sergeant Suber and Officer Jarboe. Please refer to Interrogatory number 5 for the names of all officers I was working with on the night in question. I don't remember the vehicle number but it was a DC cruiser, my hours were 2300-0730,

19. Describe in detail the basis for your 1) detention of any plaintiff, 2) handcuffing of any plaintiff and 3) arrest of any plaintiff, and in doing so please identify any and all reports, notes, or documentation of any kind that memorializes the referenced events and reasons stated.

RESPONSE: I did not detain or handcuff any of the plaintiffs. My only involvement in the arrest was that I completed the front page of the 163 and I signed it.

20. If it is your contention that you did not detain, handcuff or arrest any plaintiff during the incident which is the subject of this lawsuit, identify all person(s) who you contend engaged in the foregoing, providing their full name, rank, and business address.

RESPONSE: See my answer to Interrogatory 19.

21. Please describe in detail the facts and circumstances surrounding how you came to enter the residence located at 115 Anacostia Road, N.E., Washington, D.C.

RESPONSE: See my answer to Interrogatory 2.

22. If it is your contention that you did not enter the residence identified above, identify all person(s) who you contend entered the residence, providing their full name, rank and business address.

RESPONSE: I did enter the house.

I have read the foregoing answers to interrogatories, and they are true to the best of my knowledge, information, and belief

/s/ Faraz Khan
FARAZ KHAN

SWORN AND SUBSCRIBED before me, a Notary Public, this 22nd day of March 2010.

/s/ [Illegible]
Notary Public D.C.

My Commission Expires: March 31, 2010

[Counsel's Signature Block and
Certificate of Service Omitted in Printing.]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Filed 04/01/11]

Civil Action No. 09-571 (RMC)

THEODORE WESBY, *et al.*,

Plaintiff,

v.

DISTRICT OF COLUMBIA *et. al.*,

Defendants.

DEFENDANT ANDRE PARKER'S RESPONSES AND OBJECTIONS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

Pursuant to Fed. R. Civ. Prc. 33, Defendant Andre Parker, having been first duly sworn under oath, upon information and belief, gives the following answers to interrogatories propounded to defendant by plaintiff:

(a) Defendant reserves the right to amend, revise, or supplement its answers to these interrogatories if and when new or different information becomes available.

(b) For any additional responsive information made available through deposition testimony, the defendant incorporates such information for the purpose of giving the plaintiff notice that such information exists, but does not adopt such testimony as accurate and, complete.

(c) Defendant, in accordance with Fed R. Civ. Pro. 33(d), may refer plaintiffs to the documents attached

hereto in order to answer these interrogatories when such answer "maybe derived or ascertained" from the document[s] and "the burden of deriving or ascertaining the answer is substantially the same" for both parties.

(d) Defendant objects to the production of any information that is protected by the attorney-client privilege; deliberative process -privilege, work product doctrine or any similarly recognized privilege, Inadvertent production of any information or documents so privileged does not constitute a waiver of such privilege or any grounds for grounds for objecting to the discovery request.

(e) Defendant objects to any part of the Plaintiffs' instruction that seeks to impose any discovery requirements outside the scope of the rules, especially any obligation to produce information not in the Defendant's control or not currently known to its attorneys after reasonable inquiry.

INTERROGATORIES

1. Please fully state your full name, date of birth, martial status, social security number, business address and residential address for the last five years, and your spouse's name.

RESPONSE: The defendant objects to this Interrogatory to the extent that it seek my residential address for the last five years and my social security number because such information is an unwarranted invasion of my privacy. Subject to and without waiving the above objections, I answer this interrogatory as follows: my name is Andre Carlos Parker, single, and my businesses address is 100 42nd St NE Washington, DC 20019.

2. Give a concise statement of the facts surrounding the arrest of the plaintiffs as you contend it occurred. In answering, please identify each and every document utilized, review or relied upon to respond or which allegedly supports the representations in your response, and specifically identify the individual answering this interrogatory.

RESPONSE: I was on routine patrol when I heard a radio transmission to assistant MPO Phifer at 115 Anacostia Road, NE. Washington. MPO Phifer notified the dispatcher that he needed assistance because there were people inside the premises. Upon arriving to the scene I proceeded to go to the back door of the premises to secure the premises of the house. As I entered the back door I observed all of the individuals sitting on the floor in the living room. I observed some individuals holding cups of liquor and beer and there were cups of liquor and beer on the floor. I could also smell marijuana. I also observed female provocatively dressed with dollars bills in a garter belt around their leg. All individuals were asked who the owner of the house was and where the owner was. I then spoke with one of the females who told me that a woman by the name of "Peaches" was renting the house from the grandson of the owner who had recently passed away and that he had given permission for all individuals to be in the house. I do not recall the name of the female who told me that but she is depicted in one of the pictures that were taken that evening. This woman used her cell phone and called "Peaches." I spoke to "Peaches" who said that she had just left the house to go to the store. I asked "Peaches" to return to the house but she refused to do so because she stated that she would be arrested. I asked "Peaches" who gave her permission to be in the house and she told me that I could confirm it with the grandson. I then spoke to the

owner and he told me that the individuals in the house did not have permission to be there. Then owner did not tell me that "Peaches" had a right to be in the house. I relayed this information to Sgt. Suber. At that point the decision was made to arrest all those present for unlawful entry. It was stated that because it was not clear who the owner of the house was and whether or not permission was given to the individuals to be in the house at the time of the occurrence Sergeant Suber ordered that all individuals be arrested.

3. For each plaintiff, detail each and every illegal act that you observed him or her engage in In answering, state with specificity where each identified plaintiff was located at the time that he/she was engaged in the illegal conduct alleged and all evidence that you collected in support of the alleged illegal conduct.

RESPONSE: Each of the plaintiffs was arrested for unlawful entry.

4. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who claim that they witnessed all or part of the incident referenced in the complaint, or who were near or at the scene at the time of the occurrence. State concisely but completely what such persons claim to have witnessed.

RESPONSE: I did not question any of the police officers or officials as to what they observed, and therefore, I don't know what they claimed to have witnessed. To the best of my recollection the only people known to me who would have personal knowledge would be the police officers and officials on the scene.

I do not know any of their homes addresses or telephone numbers. All of the police officers and officials on the scene were from the Sixth District.

5. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who arrived at the scene within one (1) hour after the occurrence. State concisely but completely of what such persons claim to have witnessed.

RESPONSE: Defendant objects to this Interrogatory to the extent that request that I disclose the home address and telephone numbers of all persons who arrived on the scene within one (1) hour after the Occurrence because providing such information is an unwarranted invasion of privacy. In any event, I do not know the home addresses and telephone numbers of those who may claim to personal knowledge of the occurrence. Subject to and without waiving the above objection, Sergeant Suber, Detective Spevulda, Officer Barnes arrived at the scene within one hour after the occurrence and their business address is 100 42nd St NE Washington DC 20019; (202) 698-0880. There were other officers and/or officials on the scene but I don't remember their names. I don't know what they claimed to have witnessed.

6. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who are known by you to have, or have claimed to have, personal knowledge or information of relevant facts which may pertain to the cause of the occurrence. State concisely but completely the nature of such personal knowledge or information.

RESPONSE: Defendant objects to this Interrogatory to the extent that I am asked to disclose the home address and telephone numbers of all persons who have or claimed to have personal knowledge or information of the facts of this case because providing such information is an unwarranted invasion of privacy. In any event, I do not know the home addresses and telephone numbers of those who may claim to personal knowledge or information of the facts of the occurrence. Subject to and without waiving the above objection, I don't know who claims to have personal knowledge or information of relevant facts which may pertain to the cause of the occurrence.

7. Have any of the persons whose names were furnished in response to any of the foregoing Interrogatories, or anyone else, made or given to you any statement or report concerning the incident which is the subject of this lawsuit? If the Answer is in the affirmative, state the name, home address, home telephone number, occupation, business address and business telephone number of each such person who made or gave such statement or report, the dates thereof, the content of each such statement, whether it was written or reduced to writing and the names and addresses of any and all persons in custody of possession thereof. Please attach a copy of the same to your Answers.

RESPONSE: No one has given me a statement and I am not aware of any statements that exist.

8. State the name, present home address, occupation and business address of any and all Persons who made an investigation to ascertain any fact relevant to the issues in this case, including particularly, but not exclusively, all investigators, officers, detectives,

police officials, experts and/or specialists. State concisely but completely the facts ascertained. If you will do so without a Request for Production, please attach a copy of any resulting reports(s) to your Answers.

RESPONSE: The Defendant objects to this Interrogatory to the extent that it seeks irrelevant or inadmissible information, or information not likely to lead to the discovery of relevant or admissible evidence. Defendant further objects to this Interrogatory to the extent that it requests that I disclose the home address of persons who investigated the facts at issue in this case because providing such information is an unwarranted invasion of privacy. In any event, I do not know what investigation this Interrogatory is referencing. I do not have in my custody or possession any investigative reports. Subject to and without waiving the above objection, to the best of my knowledge there was no investigation or interviews done other that what was conducted on the scene?

9. Did any of the plaintiffs make or give to you, or your agents or representatives, any statement or report concerning the occurrences referred to in the complaint or concerning any fact pertaining to any issue in this case? If the answer is in the affirmative, state when, where and to whom such statement (s) was/were made or given, whether or not it is in writing, the content of such statement, the name, home address, home telephone number, occupation, business address and business telephone number of any and all persons who have the original, and attach a copy thereof to your answers.

RESPONSE: None of the plaintiffs gave me a statement or a report concerning the occurrence referred to in the complaint or concerning any fact pertaining to any issue in this case.

10. Have you engaged any expert(s) whom you intend to call as witness(es) at trial, whether in anticipation for trial, preparation for litigation, or for any other purpose contemplated to obtain opinions, advice or information regarding facts or issues relevant to this case? If yes, state: (a) the names home addresses, occupation and business addresses of said expert(s), (b) whether any report, oral or written, has bee obtained from said experts(s), (c) furnish the dates thereof, (d) attach here a copy of said written reports(s), and (e) state the contents of any and all oral reports from said expert(s) as to the finding and opinions of the said expert.

RESPONSE: I have not-engaged any expert(s) whom I intend to call as witness(es) at trial.

11. Do you have within your possession or control, or do you have knowledge of any photograph, picture, audio recording, motion picture, plats or diagrams of the scene, the plaintiff(s) or other items which pertain in any way to the occurrence alleged in plaintiffs' complaint? If the answer to this Interrogatory is in the affirmative in any way, fully identify the item or items in your possession.

RESPONSE: I did not take any pictures nor do I have any pictures in my possession or control, I know that there were pictures taken. Based on information and belief, those pictures were produced by the District of Columbia in its initial disclosures.

12. Identify each of the police officer, including supervisors, who responded to the scene which is the subject of this lawsuit. For each of the identified officers, please provide the following information:

a. His/Her rank, assignment location, and duties on the scene;

b. Whether or not he/she assisted in the arrest of the plaintiffs

RESPONSE: Please refer to Interrogatory number 5 for the names and rank of all police officers and supervisors who responded to the scene. For all identified officers and supervisors. Based on information and belief, all of the officers and officials on the scene were assigned to the 6D that evening. I do not know their, duties on the scene. Officers Kahn and Newman made arrest.

13. Identify any and all lawsuits and/or disciplinary proceedings of any kind in which you have been involved in, in any way, during your tenure with the Metropolitan Police Department and state in detail the nature of the disciplinary proceedings and/or lawsuit, the date of the disciplinary proceeding or lawsuit was filed, the allegations asserted therein, the outcome of the disciplinary proceedings or lawsuit, the name of all parties to the lawsuit, the forum and/or court in which the disciplinary proceeding or lawsuit was filed and the outcome of the proceeding, indicating whether the proceeding is still pending.

RESPONSE: [redacted]

14. Identify any and all instances wherein you have been the subject of any complaint(s) lodged by citizens during his tenure with the Metropolitan Police Department and state in detail the nature of the complaint, the date of the complaint was lodged, the allegations asserted therein, the outcome of any proceedings related thereto, the name of the complaining party, indicating whether the complaint is still pending and identify any and all documents which relate in any way to each such proceeding(s) or complaint(s).

RESPONSE: [redacted]

15. Identify all reports, memorandums, notes, investigations or writings of any kind which refer to any stop, detention, assault and/or arrest of any of the plaintiffs, including but not limited to, the date of the document, author of the document, the recipient of the document and the subject matter of the document. Please produce all such documents.

RESPONSE: Prior to the incident I had no knowledge of any of the plaintiffs. As a result of the events of March 14-15, 2008 the only reports I am aware of are the PD 163's. Based on information and belief, the PD 163's was included in the District of Columbia's initial disclosures.

16. State with specificity the factual basis of your answer's affirmative defenses.

RESPONSE: I do not remember detaining or handcuffing anyone on the night of the incident. Further, the affirmative defenses have been asserted by my attorney.

17. Identify all documents which reference in any way the training provided to you during your tenure as a Metropolitan Police Officer.

RESPONSE: See Exhibit 1, attached hereto.

18. Please state your specific duties on the date in which the incident occurred, including your specific assignment, to whom you were to report, the name of all the officers who were working with you on the day of question, the vehicle assigned to you, your duty hours for that day and what specific duties were you performing at the time of the incident.

RESPONSE; On the day of the incident I was working out of 6D on the power shift on regular patrol, I was to

report to Sergeant Matthews, I was assigned to a DC cruiser; my tour of duty was 1930-0400.

19. Describe in detail the basis for your 1) detention of any plaintiff, 2) handcuffing of any plaintiff and 3) arrest of any plaintiff, and in doing so please identify any and all reports, notes, or documentation of any kind that memorializes the referenced events and reasons stated.

RESPONSE: I do not remember detaining, handcuffing or arresting anyone on the night of the incident.

20. If it is your contention that you did not detain, handcuff or arrest any plaintiff during the incident which is the subject of this lawsuit, identify all person(s) who you contend engaged in the foregoing, providing their full name, rank, and business address.

RESPONSE: I do not know who would have detained, handcuffed of the plaintiff's on the night of the incident.

21. Please describe in detail the facts and circumstances surrounding how you came to enter the residence located at 115 Anacostia Road, N.E., Washington, D.C.

RESPONSE: See answer to Interrogatory 2, above.

22. If it is your contention that you did not enter the residence identified above, identify all person(s) who you contend entered the residence, providing their full mime, rank and business address.

RESPONSE: I did enter the house on the night of the incident.

I have read the foregoing answers to interrogatories, and they are true to the best of my knowledge, information, and belief.

/s/ Andre Parker
ANDRE PARKER

SWORN AND SUBSCRIBED before me a Notary Public, this 17th day of March 2010.

/s/ Dawne Daye
Notary Public, D.C.

My Commission Expires:
DAWNE RHONDA DAYE
NOTARY PUBLIC DISTRICT OF COLUMBIA
MY COMMISSION EXPIRES JANUARY 31, 2014

[Counsel's Signature Block and
Certificate of Service Omitted in Printing.]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Filed 04/01/11]

Civil Action No. 09-571 (RMC)

THEODORE WESBY, *et al.*,

Plaintiff,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

DEFENDANT JASON NEWMAN'S RESPONSES AND OBJECTIONS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES

Pursuant to Fed. R. Civ. Pro. 33, Defendant Jason Newman, having been first duly sworn under oath, upon information and belief, gives the following answers to interrogatories propounded to defendant by plaintiff:

(a) Defendant reserves the right to amend, revise, or supplement its answers to these interrogatories if and when new or different information becomes available.

(b) For any additional responsive information made available through deposition testimony, the defendant incorporates such information for the purpose of giving the plaintiff notice that such information exists, but does not adopt such testimony as accurate and complete.

(c) Defendant, in accordance with Fed R. Civ. Pro. 33(d), may refer plaintiffs to the documents attached hereto in order to answer these interrogatories when such answer "maybe derived or ascertained" from the document[s] and "the burden of deriving or ascertaining the answer is substantially the same" for both parties.

(d) Defendant objects to the production of any information that is protected by the attorney-client privilege, deliberative process privilege, work product doctrine or any similarly recognized privilege. Inadvertent production of any information or documents so privileged does not constitute a waiver of such privilege or any grounds for grounds for objecting to the discovery request.

(e) Defendant objects to any part of the Plaintiff's instruction that seeks to impose any discovery requirements outside the scope of the rules, especially any obligation to produce information not in the Defendant's control or not currently known to its attorneys after reasonable inquiry.

INTERROGATORIES

1. Please fully state your full name, date of birth, martial status, social security number, business address and residential address for the last five years, and your spouse's name.

RESPONSE: The Defendant objects to this Interrogatory to the extent that it seeks irrelevant or inadmissible information, or information not likely to lead to the discovery of relevant or admissible evidence. Further the defendant objects to this Interrogatory to the extent that it seek my residential address, marital status, my date of birth, and my social security number because such information is an

unwarranted invasion of my privacy. Subject to and without waiving the above objections, I answer this interrogatory as follows: my name is Jason Newman and, my business address is 100 42nd St NE Washington, DC 20019.

2. Give a concise statement of the facts surrounding the arrest of the plaintiffs as you contend it occurred. In answering, please identify each and every document utilized, review or relied upon to respond or which allegedly supports the representations in your response, and specifically identify the individual answering this interrogatory.

RESPONSE: Upon arriving to the scene I first went around to the back of the house to make sure that nobody ran out the back door. I then heard an officer state that other officers had gained entry to the house. At that point I returned to the front of the house and entered the first floor. While other officers were speaking to individuals in the first floor, myself and other officers went upstairs to see if anybody was there. One male was found hiding in the closet, one female may have been in the bathroom and another female was just standing in the bedroom. We then asked these individuals to go down stairs and they did. At that point, I went outside while other officers spoke with the people in the house. Sergeant Suber arrived on the scene and it was explained to him what was going on. I do recall officers asking who lived in the house but the individuals were not able to answer the questions. Sergeant Suber then made the decision to have the individuals arrested for unlawful entry.

3. For each plaintiff; detail each and every illegal act that you observed him or her engage in. In answering, state with specificity where each identified plaintiff was located at the time that he/she was engaged in

the illegal conduct alleged and all evidence that you collected in support of the alleged illegal conduct.

RESPONSE: Each of the plaintiffs was arrested for unlawful entry.

4. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who claim that they witnessed all or part of the incident referenced in the complaint, or who were near or at the scene at the time of the occurrence. State concisely but completely what such persons claim to have witnessed.

RESPONSE: I did not question any of the police officers or officials as to what they observed, and therefore, I don't know what they claimed to have witnessed. To the best of my recollection the only people known to me who would have personal knowledge would be the police officers and officials on the scene. I do not know any of their homes addresses or telephone numbers. All of the police officers and officials on the scene were from the Sixth District.

5. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who arrived at the scene within one (1) hour after the occurrence. State concisely but completely of what such persons claim to have witnessed.

RESPONSE: The Defendant objects to this Interrogatory to the extent that it seeks irrelevant or inadmissible information, or information not likely to lead to the discovery of relevant or admissible evidence. Defendant objects to this Interrogatory to the extent that it requests that I disclose the home address and telephone numbers of all persons who arrived on the

scene within one (1) hour after the occurrence because providing such information is an unwarranted invasion of privacy. In any event, I do not know the home addresses and telephone numbers of those who may claim to have personal knowledge of the occurrence. Subject to and without waiving the above objection, Officer Campanale, Officer khan, Officer Parker, Sergeant Suber, Officer Jarboe, MPO Phifer, Officer Espinosa, arrived at the scene within one hour after the occurrence and their business address is 100 42nd St NE Washington DC 20019; (202) 698-0880. There may have been other officers and/or officials on the scene but I do not remember who they may have been. I do not know what they claimed to have witnessed.

6. State the name, home address, home telephone number, occupation, business address and business telephone number of all persons known to you who are known by you to have, or have claimed to have, personal knowledge or information of relevant facts which may pertain to the cause of the occurrence. State concisely but completely the nature of such personal knowledge or information.

RESPONSE: Defendant objects to this Interrogatory to the extent that I am asked to disclose the home address and telephone numbers of all persons who have or claimed to have personal knowledge or information of the facts of this case because providing such information is an unwarranted invasion of privacy. In any event, I do not know the home addresses and telephone numbers of those who may claim to have personal knowledge or information of the facts of the occurrence. Subject to and without waiving the above objection, the only individuals I am aware of having any information are the officials who I named in Interrogatory number 5 who were on the scene. Please

refer to Interrogatory number 5 for the list of names and addresses. I do not know what knowledge or information they may have.

7. Have any of the persons whose names were furnished in response to any of the foregoing Interrogatories, or anyone else, made or given to you any statement or report concerning the incident which is the subject of this lawsuit? If the Answer is in the affirmative, state the name, home address, home telephone number, occupation, business address and business telephone number of each such person who made or gave such statement or report, the dates thereof, the content of each such statement, whether it was written or reduced to writing and the names and addresses of any and all persons in custody of possession thereof. Please attach a copy of the same to your Answers.

RESPONSE: No one has given me a statement.

8. State the name, present home address, occupation and business address of any and all persons who made an investigation to ascertain any fact relevant to the issues in this case, including particularly, but not exclusively, all investigators, officers detectives, police officials, experts and/or specialists. State concisely but completely the facts ascertained. If you will do so without a Request for Production, please attach a copy of any resulting reports(s) to your Answers.

RESPONSE: Defendant objects to this Interrogatory to the extent that it requests I disclose the home address of persons who investigated the facts at issue in this case because providing such information is an unwarranted invasion of privacy. In any event, I do not know what investigation this Interrogatory is referencing. I do not have in my custody or possession any investigative reports.

9. Did any of the plaintiffs make or give to you, or your agents or representatives, any statement or report concerning the occurrences referred to in the complaint or concerning any fact pertaining to any issue in this case? If the answer is in the affirmative, state when, where and to whom such statement(s) was/were made or given, whether or not it is in writing, the content of such statement, the name, home address, home telephone number, occupation, business address and business telephone number of any and all persons who have the original, and attach a copy thereof to your answers.

RESPONSE: None of the plaintiffs gave me a statement or a report concerning the occurrence referred to in the complaint or concerning any fact pertaining to any issue in this case.

10. Have you engaged any expert(s) whom you intend to call as witness(es) at trial, whether in anticipation for trial, preparation for litigation, or for any other purpose contemplated to obtain opinions, advice or information regarding facts or issues relevant to this case? If yes, state: (a) the names home addresses, occupation and business addresses of said expert(s), (b) whether any report, oral or written, has bee obtained from said experts(s), (c) furnish the dates thereof, (d) attach here a copy of said written reports(s), and (e) state the contents of any and all oral reports from said expert(s) as to the finding and opinions of the said expert.

RESPONSE: I have not engaged any expert(s) whom I intend to call as witness(es) at trial.

11. Do you have within your possession or control, or do you have knowledge of any photograph, picture, audio recording, motion picture, plats or diagrams of the scene, the plaintiff(s) or other items which pertain

in any way to the occurrence alleged in plaintiffs' complaint? If the answer to this Interrogatory is in the affirmative in any way, fully identify the item or items in your possession.

RESPONSE: I did not take any pictures nor do I have any pictures in my possession or control. Officer Campanale did take pictures. Based on information and belief, those pictures were produced by the District of Columbia in its initial disclosures.

12. Identify each of the police officer, including supervisors, who responded to the scene which is the subject of this lawsuit. For each of the identified officers, please provide the following information:

a. His/Her rank, assignment location, and duties on the scene;

b. Whether or not he/she assisted in the arrest of the plaintiffs

RESPONSE: Please refer to Interrogatory number 5 for the names and rank of all police officers and supervisors who responded to the scene. For all identified officers named I do not know their assignment location, duties on the scene or whether or not they assisted in the arrest of plaintiffs.

13. Identify any and all lawsuits and/or disciplinary proceedings of any kind in which you have been involved in, in any way, during your tenure with the Metropolitan Police Department and state in detail the nature of the disciplinary proceedings and/or lawsuit, the date of the disciplinary proceeding or lawsuit was filed, the allegations asserted therein, the outcome of the disciplinary proceedings or lawsuit, the name of all parties to the lawsuit, the forum and/or court in which the disciplinary proceeding or lawsuit

was filed and the outcome of the proceeding, indicating whether the proceeding is still pending.

RESPONSE: I have never been the subject of a lawsuit. I did receive a letter of reprimand for not staying within my specific assigned area.

14. Identify any and all instances wherein you have been the subject of any complaint(s) lodged by citizens during his tenure with the Metropolitan Police Department and state in detail the nature of the complaint, the date of the complaint was lodged, the allegations asserted therein, the outcome of any proceedings related thereto, the name of the complaining party, indicating whether the complaint is still pending and identify any and all documents which relate in any way to each such proceeding(s) or complaint(s).

RESPONSE: I have never had any complaints lodge by citizens against me during my tenure with the Metropolitan Police Department.

15. Identify all reports, memorandums, notes, investigations or writings of any kind which refer to any stop, detention, assault and/or arrest of any of the plaintiffs, including but not limited to, the date of the document, author of the document, the recipient of the document and the subject matter of the document. Please produce all such documents.

RESPONSE: Prior to the night of the incident I had no knowledge of any of the plaintiffs. As a result of the events of March 15, 2008, the only reports I am aware of are the PD 163's. Based on information and belief, the PD 163 I completed and the PD 163's completed by other police officers were included in the District of Columbia's initial disclosures.

16. State with specificity the factual basis of your answer's affirmative defenses.

RESPONSE: I do not remember detaining or handcuffing anyone on the night of the incident. Further, the affirmative defenses have been asserted by my attorney.

17. Identify all documents which reference in any way the training provided to you during your tenure as a Metropolitan Police Officer.

RESPONSE: See Exhibit 1.

18. Please state your specific duties on the date in which the incident occurred, including your specific assignment, to whom you were to report, the name of all the officers who were working with you on the day of question, the vehicle assigned to you, your duty hours for that day and what specific duties were you performing at the time of the incident.

RESPONSE: The Defendant objects to this Interrogatory as it is unclear as to which officers plaintiffs are inquiring about. Subject to and without waiving the above objection, on the night of the incident I was working a regular patrol. I was to report Sergeant Mathews. Please refer to Interrogatory number five for the names of all officers I was working with on the night in question. I don't remember the vehicle number but it was a DC Cruiser, my hours were 1930-0400, at the time of the incident I was on patrol.

19. Describe in detail the basis for your 1) detention of any plaintiff, 2) handcuffing of any plaintiff and 3) arrest of any plaintiff, and in doing so please identify any and all reports, notes, or documentation of any kind that memorializes the referenced events and reasons stated.

RESPONSE: I do not remember detaining or handcuffing anyone on the night of the incident. I was ordered to make an arrest by Sergeant Suber.

20. If it is your contention that you did not detain, handcuff or arrest any plaintiff during the incident which is the subject of this lawsuit, identify all person(s) who you contend engaged in the foregoing, providing their full name, rank, and business address.

RESPONSE: I do not contend that I did not make an arrest.

21. Please describe in detail the facts and circumstances surrounding how you came to enter the residence located at 115 Anacostia Road, N.E., Washington, D.C.

RESPONSE: See Interrogatory 2, above.

22. If it is your contention that you did not enter the residence identified above, identify all person(s) who you contend entered the residence, providing their full name, rank and business address.

RESPONSE: I do not contend that I did not enter the house.

I have read the foregoing answers to interrogatories, and they are true to the best of my knowledge, information, and belief.

/s/ Jason Newman
JASON NEWMAN

SWORN AND SUBSCRIBED before me, a Notary Public, this 18th of March, 2010.

/s/ [Illegible]
Notary Public, D.C.

My Commission Expires: 2/28/14

[Counsel's Signature Block and
Certificate of Service Omitted in Printing.]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Filed 04/18/11]

Civil Action No. 09-501 (RLW)

THEODORE WESBY, *et al.*,

Plaintiffs,

v.

THE DISTRICT OF COLUMBIA, *et al.*,

Defendants.

PLAINTIFFS' RESPONSE TO DEFENDANTS' ALLEGED FACTS AS TO WHICH THERE IS NO GENUINE DISPUTE

Come now the plaintiffs, by and through counsel, and hereby submit their response to Defendants' Alleged Material Facts As To Which There Is No Genuine Dispute.

1. Defendant District of Columbia is a municipal corporation organized pursuant to the laws of the United States Complaint at ¶ 24.

Admitted.

2. Officer Edwin Espinosa was at all times relevant to this proceeding a Metropolitan Police Officer acting within the course and scope of his authority. Complaint at ¶ 19.

Admitted.

3. Officer J. New man was at all times relevant to this proceeding a Metropolitan Police Officer acting within the course and scope of his authority, Complaint at ¶ 20.

Admitted.

4. Officer A. Campanale was at all times relevant to this proceeding a Metropolitan Police Officer acting within the course and scope of his authority. Complaint at ¶ 21.

Admitted.

5. Officer A. Parker was at all times relevant to this proceeding a Metropolitan Police Officer acting within the course and scope of his authority. Complaint at ¶ 22.

Admitted.

6. Officer F. Kahn was at all times relevant to this proceeding a Metropolitan Police Officer acting within the course and scope of his authority. Complaint at ¶ 23.

Admitted.

7. The Complaint purports to sue individual MPD officers in their individual and official capacities. Complaint at ¶19-23.

Plaintiffs' complaint does not "purport" to do anything. The complaint specifically indicates that the defendant police officers are being sued in both their official and individual capacities.

8. On Saturday March 16 2009, all Plaintiffs were at a social gathering at 115 Anacostia Road. N.E. in Washington. D.C. Complaint at 25.

Plaintiffs' complaint at ¶ 25 actually states "plaintiffs were attending a bachelor party at 115 Anacostia Rd., N.E., in Washington, D.C."

9. No Plaintiff alleges that he or she were overnight guests of the owner or lessee of the premises at 115 Anacostia Road, N.E.

Admitted.

10. MPD received information from neighbors of 115 Anacostia Road. N.E. that the residence was vacant. Dex. "O" (Affidavit of Randy Keck); DEx. "C" (Statement of K.A. Walters); and DEx. "A" (Arrest Report); DEx Campanale Interrog. at 2-3.

Defendants' Exhibit O is an undated affidavit of Randy Keck that was apparently faxed to defendants' counsel. What is significant about this document is the fact that it indicates that Mr. Keck "thought" that the property was vacant, Affidavit at 1, and it fails to support in any way the suggestion that he provided information in this regard to the MPD at any time prior to the arrests of the plaintiffs. Defendants' Exhibit C is an unsigned, undated alleged police report from somebody with "Walters" in their name. In actuality defendants' Exhibit C is nothing more than inadmissible hearsay. An unsworn document that constitutes inadmissible hearsay, which defendants' Exhibit O most certainly is, may not be used in support of a motion for summary judgment. *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 158 (1970); *Bush v. District of Columbia*, 595 F.3d 384, 387 (D.C. Cir. 2010). Similarly, defendants' Exhibit A, which is the alleged arrest report for one of the plaintiffs, although the name of the person arrested has been redacted for

some odd reason, constitutes nothing more than inadmissible hearsay and it too may not be used to support a motion for summary judgment. *Id.*

11. At about 2.00 A M.. on March 16 2008. uniformed MPD officers arrived at 115 Anacostia Rd. N.E. Washington D.C. where Plaintiffs were located. Complaint at 26.

The plaintiffs have no idea when uniformed MPD Officers arrived at 115 Anacostia Rd., N.E., nor does their complaint state otherwise at ¶ 26. What is alleged in their complaint is that officers began to loudly bang on the door at approximately 2:00 a.m. and then they entered the premises brandishing their firearms. More importantly, however, this alleged fact is not even remotely material to any of the issues before the Court.

12. Several MPD Officers went to the back of the house at 115 Anacostia Road prior to entry of the premises by MPD Officers at the liont of the house for security reasons or if someone may run out the back. DEx. (Parker Dep. 9:12-19).

The plaintiffs admit that Officers went to the back of the residence, however, this alleged fact is not even remotely material to any of the issues before the Court.

13. MPD Officers Phifer and Defendant MPD Officer Edwin Espinosa heard loud music coming from inside of 115 Anacostia Road. N.E. even though the residence was reported to be vacant Dex "A" (Arrest Report).

This alleged fact is once again supported by inadmissible hearsay. Moreover, Officer Edwin Espinosa

does not mention hearing any loud music in his deposition. Espinosa Interrogatory Ans. 2 (Defendants' Exhibit Q); Espinosa Dep at 8 (Plaintiffs' Exhibit 4).

14. MPD Officers Phifer and Defendant MPD Officer Edwin Espinosa knocked heavily on the front door, at which time the door became ajar. DEx, "A" (Arrest Report): DEx. "Q" Espinosa Interrog. at 3.

Defendants' Exhibit A is inadmissible and meaningless hearsay. As to the suggestion that Officer Espinosa supports the alleged material fact, the defendants are not being honest. First of all, Officer Espinosa discusses "knocking on the door" in response to interrogatory 2, not 3. And what he says is "MPO Phifer approached the premises and knocked on the door. An individual opened the door and I could see people in the house scattering into different rooms." Defendants' Exhibit Q. Obviously the adjectives were added by counsel and the representation that the door "became ajar," was simply made up.

15. MPD Officers entered 115 Anacostia Road. N.E. through the open door and observed several females dressed in thongs, g-strings, and bras. The women had U.S. currency attached to an elastic band strapped to some of their legs. DEx. "B" (Photographs).

This alleged fact is neither relevant nor material to any of the issues before the Court as each of the defendant Officers has testified that no illegal conduct was observed. Plaintiffs' Exhibits 4, 5, 6, 7, & 8

16. Plaintiff Chittams did not see the MPD Officers enter the house. At the time the police arrived. Chittams was upstairs in a bedroom with Brittany (Brown) and Hunt. DEx. "G" (Chittams Dep. 29-30, 33); DEx. "P" Campanale Interrog. at 3; DEx. "R" Khan Interrog. at 3; DEx. "S" Parker interrog. at 3.

This alleged fact is neither relevant nor material to any of the issues before the Court.

17. Plaintiff Chittams states in her deposition that Plaintiff Taylor was also upstairs in a separate bedroom at the time the police entered. DEx. 'G (Chittams Dep. 29:18-21; 30: 1-5).

This alleged fact is neither relevant nor material to any of the issues before the Court.

18. Plaintiff Chittams states in her deposition that Plaintiffs Louis and Davis were also upstairs at. the time the police entered. DEx. "G" (Chittams Dep. 33:1-8); DEx. "I" Newman Interrog. at 3.

This alleged fact is neither relevant nor material to any of the issues before the Court.

19. No Plaintiff has testified during discovery that they saw the MPD Officers enter the house or the method used to enter the house.

This alleged fact is neither relevant nor material to any of the issues before the Court.

20. Plaintiff Sanjah Hunt observed one Plaintiff (unknown) give a lap dance to another social visitor at 115 Anacostia Avenue N.E. prior to police arrival. DEx. "H" (Hunt Dep. 24:1 1).

This alleged fact is neither relevant nor material to any of the issues before the Court as each of the defendant Officers has testified that no illegal conduct was observed. Plaintiffs' Exhibits 4, 5, 6, 7, & 8.

21. Plaintiff Ethelbert Louis stated in deposition after he arrived at 115 Anacostia Road at about 1:00 p.m. the room was dark and he saw several women giving lap dances. DEx. "I" (Louis Dep. 27:1-5; 28:6-1 7).

This alleged fact is neither relevant nor material to any of the issues before the Court as each of the defendant Officers has testified that no illegal conduct was observed. Plaintiffs' Exhibits 4, 5, 6, 7, & 8

22. The observations made by the MPD officers while inside 115 Anacostia Road, N.E., was that actions consistent with strip clubs for profit were taking place.

Conspicuously, no reference is made to the part of the record that supports defendants' contention that the officers observed "that actions consistent with strip clubs for profit were taking place," even though LCvR 7(h)(1) requires that a material fact that the moving party contends there is no genuine issue regarding "shall include references to the parts of the record relied upon to support the statement." The reason for that is because the statement is not supported in the record. Apparently, the only basis for the statement is counsel for the defendants' personal opinion about this incident that she wished to share, which is entirely irrelevant.

23. A used condom was on a window sill at 115 Anaeostia Road, N.E. DEx. "D" (Photograph).

This alleged fact is neither relevant nor material to any of the issues before the Court.

24. MPD Officers smelled marijuana while at 115 Anacostia Road, N.E. Parker Dep. 14:1 7, DEx "P". Campanale Interrog at 3; DEx "T- Newman Interrog. at 3

This alleged fact is neither relevant nor material to any of the issues before the Court as each of the defendant Officers has testified that no illegal conduct was observed. Plaintiffs' Exhibits 4, 5, 6, 7, & 8

25. MPD Officers interviewed all of the persons on site at 115 Anacostia Road, N.E. DEx. "A" (Arrest Report).

This alleged fact is neither relevant nor material to any of the issues before the Court.

26. None of the people on-site at 115 Anacostia Road, N.E. admitted to be the owner of the property.

None of the plaintiffs own 115 Anacostia Road, N.E.

27. MPD Officers were told by some social guests at 115 Anacostia Road, N E that a woman named "Tasty" or "Peaches" owned or rented 115 Anacostia Road, N.E., and that she had given permission to hold a bachelor party on site that night. DEx. "G" (Chittams Dep. 12:1 1-21).

What Ms. Chittams actually said in her deposition on page 12 was that she had been to the house before with "Tasty." There was furniture in the house and it looked like somebody was just moving in when she was there before, and when she went there, "Tasty" had keys to the house so she assumed that she lived there.

28. None of the Plaintiffs knew who the bachelor was, and none of the Plaintiffs could give his name in depositions.

Conspicuously, no reference is made to the part of the record that supports defendants' contention even though LCvR 7(h)(1) requires that a material fact that the moving party contends there is no genuine issue regarding "shall include references to the parts of the record relied upon to support the statement." The reason for that is because the statement is in fact not supported in the record. Apparently, the only basis for the statement is counsel for the defendants' personal

opinion about this incident that she wished to share, which is entirely irrelevant.

29. With respect to the reason why she was at 115 Anaeostia Road, N.E., Plaintiff Stribling stated in her deposition that her then-boyfriend. Lynn Taylor. told her he "wanted to wish his friend well before he got married.- DEx. "J- (Stribling Dep 24:5-18).

This alleged fact is neither relevant nor material to any of the issues before the Court.

30. With respect to the reason why he was at 115 Anacostia Road, N.E., Lynn Taylor states in his deposition that he went to 115 Anacostia Road to see Natasha Chittams. DEx. "K" (Taylor Dep. 22:13-16) MPD Officer Parker spoke to Tasty on a cell phone provided by one of the occupants on the premises, and he asked Tasty to come to the premises. Parker Interrog. at 3.

What Mr. Taylor actually said in his deposition at page 22 was that he was going there to see his stepsister and that a bachelor party was going to be going on. Nonetheless, the alleged facts are neither relevant nor material to any of the issues before the Court.

31. With respect to the reason why she was at 115 Anacostia Road, N.E. Plaintiff Chittams says in her deposition that a girl named "Tasty," who she met at Irving's, a strip club where she and Tasty worked, told her that she was having a bachelor party for a friend of hers and that she needed Chittams to call girls to come to the party. DEx. "G" (Chittams Dep. 12:1 1-21; 13:1-10).

At no place on page 12 or 13 of Ms. Chittams deposition does she state that she met "Tasty" at a

strip club called Irving's. In addition, this alleged fact is neither relevant nor material to any of the issues before the Court.

32. With respect to the reason why she was at 115 Anacostia Road, N.E., Shanja Hunt states that Chittams asked her to come to the party to dance. Hunt Dep. 8:6-13.

This alleged fact is neither relevant nor material to any of the issues before the Court.

33. With respect to the reason why she was at 1 15 Anacostia Road, N.E., Alissa Cole states in deposition that she was told about the party by Britanny Brown. DEx. "L" (Cole Dep. 8:19-21 ; 9:1-4).

This alleged fact is neither relevant nor material to any of the issues before the Court.

34. With respect to money seen in the dancing girls' g-strings, according to Chittams deposition, she called girls to come to the bachelor party but informed them that they would not be paid simply for coming, but would be able to keep any tips they made for dancing. DEx "G" (Chittams Dep. 14:10-21).

This alleged fact is neither relevant nor material to any of the issues before the Court.

35. None of the Plaintiffs know Tasty's real name even though it is alleged that she invited Plaintiffs to the party.

Conspicuously, no reference is made to the part of the record that supports defendants' contention even though LCvR 7(h)(1) requires that a material fact that the moving party contends there is no genuine issue regarding "shall include references to the parts of the record relied upon to support the statement." The reason for that is because the statement is in fact not

supported in the record. Apparently, the only basis for the statement is counsel for the defendants' personal opinion about this incident that she wished to share, which is entirely irrelevant.

36. Tasty has not been deposed, made a declaration, taken an affidavit, intervened in this action, or otherwise came forth with proof of a possessory interest in 115 Anacostia Road, N.E.

Admitted. However, this alleged fact is neither relevant nor material to any of the issues before the Court.

37. Further research into D.C. real property assessments, deeds and mortgages public records indicated that on March 15, 2008, a man named Henry Hughes owned the premises at 115 Anacostia Avenue, N.E., until he sold it to Mid-Atlantic Development Company LLC on October 28, 2008. DEx. "E" (Public Record). Public records show that Mr. Hughes owned the premises since 2001. (Id.). No evidence elicited during discovery indicated that Hughes rented the premises to Tasty or that they had co-ownership.

This alleged fact is neither relevant nor material to any of the issues before the Court inasmuch as none of the information contained in the submitted Exhibit was known to the defendants on the date of plaintiffs' arrest. Nonetheless, a mere cursory reading of defendants' Exhibit E indicates that Henry Hughes, who supposedly owned the subject property on March 15, 2008, did in fact die on April 27, 2007. Thus, it is unclear how Mr. Henry Hughes could have owned it on March 15, 2008, as alleged by the defendants.

38. MPD Officers spoke with Mr. Hughes while they were at the 115 Anacostia premises on March 16, 2008, and Hughes told the police that he owned the

property, he was in the process of working out some type of lease agreement, but that he and Peaches never came to an agreement and the social guests did not have permission to be in that house. DEx. "F" (Parker Dep. 17:22; 18:1-18).

This contention is refuted by defendants' own Exhibit E which indicates that the owner of the property, Henry Hughes, died on April 27, 2007. However, this alleged fact is neither relevant nor material to any of the issues before the Court in any event.

39. MPD Officer Anthony Campanale took pictures at 115 Anacostia Road, N.E. to document the scene. DEx. "M" (Campanale Dep. 19:4-7).

This alleged fact is neither relevant nor material to any of the issues before the Court.

40. Investigations indicated to the MPD Officers that they had probable cause to place the individuals under arrest for unlawful entry. Nobody could determine who was supposed to be inside the residence. DEx. "M" (Campanale Dep. 35: 3-22).

As a matter of law, the fact that the defendants could not determine who was supposed to be in the house does not establish probable cause for an arrest for unlawful entry. *Bolger v. D.C.*, 608 F. Supp.2d 10, 18-19 (D.D.C. 2009).

41. MPD Officers arrested the social guests on-site at 115 Anacostia Road, N.E. on a charge of unlawful entry. DEx. A (Arrest report).

According to Sgt. Suber, he directed that the plaintiffs be arrested for unlawful entry, at the police station he was told that what the plaintiffs had been charged with was inappropriate. Therefore, the charge

of unlawful entry was dropped and the plaintiffs were then charged with disorderly conduct. Suber dep at 28-30, 39-42.

42. MPD Officers transported the people found on-site at 115 Anacostia Road, N.E. to the 6th District police station where a decision was made to change the arrest charge to disorderly conduct.

It is admitted that the plaintiffs' were subsequently charged with disorderly conduct even though no basis for that charge existed. Espinosa dep at 11, 22; Campanale dep at 41-42; Khan dep at 12, 16; Newman dep at 12, 24; Parker dep at 17, 20, 32, 34;Suber dep at 28-30, 39-43.

43. MPD Officers on the scene did not charge Plaintiffs with disorderly conduct. The MPD Officers received instructions from the day watch commander to change the charge from unlawful entry to disorderly conduct after they arrived at 6th District police station. DEx. "M" (Campanale Dep. 42:4-10). The Attorney General's Office called and advised MPD Officers to "lock them up for disorderly conduct. . ." DEx. "N" (Sgt. Suber Dep. 29:13:17; see also, id. at 40:21-22; 41 :1-20).

It is admitted that the plaintiffs' were subsequently charged with disorderly conduct even though no basis for that charge existed. Espinosa dep at 11, 22; Campanale dep at 41-42; Khan dep at 12, 16; Newman dep at 12, 24; Parker dep at 17, 20, 32, 34;Suber dep at 28-30, 39-43.

44. The defendant officers are listed as "Arresting Officer" on the corresponding PD-163 arrest forms. None of the defendant officers personally arrested or detained any of the plaintiffs. Campanale Interrog. at 10; Espinosa Interrog. at 9; Khan Interrog. at 10; Newman Interrog. at 9; Parker Interrog. at 10. None

of the defendant officers made the decision to arrest or detain any of the plaintiffs. Campanale Interrog. at 3; Espinosa Interrog. at 10; Khan Interrog. at 3; Newman Interrog. at 3; Parker Interrog. at 3-4.

The contention that none of the defendant officers "personally arrested or detained any of the plaintiffs," is simply untrue. In his deposition defendant Campanale testified as follows:

> Q In your interrogatories you say you don't know who detained, handcuffed or arrested any of the plaintiffs on the night of the incident. Does that indicate that you didn't arrest any of the plaintiffs in this case?
>
> A No, it doesn't indicate that.
>
> Q So which one of them did you arrest?
>
> A Like I stated before, I don't recall their specific names at this time.

Exhibit 5 at 37.

* * *

> Q What did you do with your arrest reports?
>
> A We turned them in.
>
> Q To who?
>
> A To the – well actually, they were turned in by officer – by MPO Phifer.
>
> Q So you gave your arrest reports to Phifer?
>
> A That's correct.

Exhibit 5 at 40-41.

In his deposition defendant Newman testified as follows:

> Q Do you know how many people were arrested?
>
> A No, sir.
>
> Q How many did you arrest?
>
> A I had one person.
>
> Q And who was that?
>
> A I believe his name was Louis Echelberg [phonetic], something like that.
>
> Q Ethelbert Louis?
>
> A Yes.

Exhibit 7 at 15-16.

According to Sgt. Suber, he directed that the plaintiffs be arrested for unlawful entry, at the police station he was told that what the plaintiffs had been charged with was inappropriate. Therefore, the charge of unlawful entry was dropped and the plaintiffs were then charged with disorderly conduct. Suber dep at 28-30, 39-42.

There is no single nor group of alleged undisputed material facts that come close to supporting defendants' motion for summary judgment.

Respectfully submitted,

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